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TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 33–1]

PART 33—FLIGHT RADIO OPERATOR CERTIFICATES

RECENT EXPERIENCE REQUIREMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 14th day of June 1950.

Currently effective Part 33 establishes requirements for the issuance of flight radio operator certificates and delineates general operating rules for flight radio operators, but does not establish recent experience requirements for such operators.

This amendment provides that no individual shall perform, or be assigned to perform, the duties of a flight radio operator unless within the preceding 12 months he has had at least 50 hours of satisfactory experience as a flight radio operator, or until an authorized representative of the Administrator has checked him and has determined that he is familiar with all current radio information pertaining to the routes to be flown and competent with respect to the operating procedures and radio equipment to be used. This provision is applicable to all holders of flight radio operator certificates regardless of the type of operation in which such holder might engage. It will be noted that the rule is stated in the alternative in order to permit those individuals who might not have had an opportunity to obtain the required number of hours of experience to be able to continue to exercise the privileges of their airman certificates by accomplishing the prescribed examination. We find that no certificated flight radio operator can perform safely the privileges authorized by his airman certificate unless he has complied with these requirements.

It will be noted that we are, concurrently with the adoption of this amendment, amending Parts 41 and 42 [1] to provide that a flight radio operator engaging in air carrier operations authorized by those parts shall meet the recent experience requirements established in this part.

It will be noted that these requirements conform to the standards established by the International Civil Aviation Organization.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 33 of the Civil Air Regulations (14 CFR, Part 33) as follows, effective July 20, 1950:

By adding § 33.45 to read as follows:

§ 33.45 *Recent experience.* No individual shall perform, or be assigned to perform, the duties of a flight radio operator (a) unless within the preceding 12 months he has had at least 50 hours of satisfactory experience as a flight radio operator, or (b) until an authorized representative of the Administrator has checked the individual and has determined that he is familiar with all current radio information pertaining to the routes to be flown and competent with respect to the operating procedures and radio equipment to be used.

(Sec. 205, 52 Stat. 984, 49 U. S. C. 425. Interprets or applies secs. 601, 602, 52 Stat. 1007, 1008, as amended; 49 U. S. C. and Sup., 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 50–5367; Filed, June 21, 1950; 8:47 a. m.]

[Civil Air Regs., Amdt. 41–2]

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF UNITED STATES

RECENT EXPERIENCE REQUIREMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 14th day of June 1950.

Currently effective Part 41 requires that a certificated flight radio operator shall not be assigned to nor perform the duties for which he is required to be certificated unless, within the preceding 12-month period, he has had at least 4 months of satisfactory experience as a radiotelegraph operator and 25 hours of

(Continued on p. 3999)

[1] See F. R. Docs. 50–5368 and 50–5369, *infra.*

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FEDERAL REGISTER

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A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

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experience in the operation of aircraft radio during flight; or until the air carrier has checked the airman and has determined his competency to act as a flight radio operator.

This amendment provides that no individual shall perform, or be assigned to perform, the duties of a flight radio operator unless he has met the recent experience requirements of Part 33. Those requirements, which are applicable to all holders of flight radio operator certificates regardless of the type of operations in which they might be engaged, provide that no individual shall perform, or be assigned to perform, the duties of a flight radio operator unless within the preceding 12 months he has had at least 50 hours of satisfactory experience as a flight radio operator, or until an authorized representative of the Administrator has checked him and has determined that he is familiar with all current radio information pertaining to the routes to be flown and competent with respect to the operating procedures and radio equipment to be used.

We find that an individual who meets the recent experience requirements established in Part 33 can perform safely the duties of a flight radio operator in scheduled air carrier operations outside the continental limits of the United States and that additional requirements for such operations are unnecessary to insure passenger safety.

It will be noted that these requirements conform to the standards established by the International Civil Aviation Organization.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 41 of the Civil Air Regulations (14 CFR, Part 41, as amended) as follows, effective July 20, 1950:

By amending § 41.72 to read as follows:

§ 41.72 *Qualification for duty.* No individual shall perform, or be assigned to perform, the duties of a flight radio operator unless he has met the recent experience requirements specified in Part 33 of this chapter.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 602, 604, 52 Stat. 1007, 1008, 1110, as amended; 49 U. S. C. and Sup., 551, 552, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 50-5368; Filed, June 21, 1950; 8:47 a. m.]

[Civil Air Regs., Amdt. 42-4]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

RECENT EXPERIENCE REQUIREMENTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 14th day of June 1950.

Currently effective Part 42 requires that a certificated flight radio operator shall not be assigned to nor perform the duties for which he is required to be certificated unless, within the preceding 12-month period, he has had at least 4 months of satisfactory experience as a radiotelegraph operator and 25 hours of experience in the operation of aircraft radio during flight; or until the air carrier has checked the airman and has determined his competency to act as a flight radio operator.

This amendment provides that no individual shall perform, or be assigned to perform, the duties of a flight radio operator unless he has met the recent experience requirements of Part 33. Those requirements, which are applicable to all holders of flight radio operator certificates regardless of the type of operations in which they might be engaged, provide that no individual shall perform, or be assigned to perform, the duties of a flight radio operator unless within the preceding 12 months he has had at least 50 hours of satisfactory experience as a flight radio operator, or until an authorized representative of the Administrator has checked him and has determined that he is familiar with all current radio information pertaining to the routes to be flown and competent with respect to the operating procedures and radio equipment to be used.

We find that an individual who meets the recent experience requirements established in Part 33 can perform safely the duties of a flight radio operator in irregular air carrier and off-route operations, and that additional requirements for such operations are unnecessary to insure passenger safety.

It will be noted that these requirements conform to the standards established by the International Civil Aviation Organization.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR, Part 42, as amended) as follows, effective July 20, 1950:

By amending § 42.44 (b) to read as follows:

(b) *Flight radio operator.* No individual shall perform, or be assigned to perform, the duties of a flight radio operator unless he has met the recent experience requirements specified in Part 33 of this chapter.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 604, 52 Stat. 1007, as amended, 1010; 49 U. S. C. and Sup., 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 50-5369; Filed, June 21, 1950; 8:47 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5492]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

ENGLISHTOWN CUTLERY, LTD., ET AL.

Subpart—*Advertising falsely or misleadingly:* § 3.15 *Business status, advantages, or connections—Connections or arrangements with others; Properties and rights;* § 3.235 *Source or origin—Domestic product as imported.* Subpart—*Misbranding or mislabeling:* § 3.1195 *Connections and arrangements with others;* § 3.1287 *Properties and rights;* § 3.1325 *Source or origin—Domestic product as imported.* In connection with the offering for sale, sale or distribution of respondents' cutlery products in commerce, using on respondents' products or in advertising any pictorial representation or depiction of the British Royal Arms or any simulation thereof; or otherwise representing, directly or by implication, that respondents are holders of a royal warrant authorizing them to display the British Royal Arms on their products or in their advertising or that cutlery products made in the United States are manufactured in the British Isles; prohibited.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Englishtown Cutlery, Ltd., et al., Docket 5492, April 4, 1950]

In the Matter of Englishtown Cutlery, Ltd., a Corporation, Erroneously Named in the Complaint as Englishtown Cutlery, Ltd. (Inc.), and Norman J. Mercer, Joseph Berger, and Edward W. Ginsburg, Individually and as Officers of Englishtown Cutlery, Ltd.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the joint answer of the respondents Englishtown Cutlery, Ltd., a corporation, Norman J. Mercer, and Edward W. Ginsburg, testimony and other evidence introduced before a trial examiner theretofore duly designated by it, recommended decision of the trial examiner and exceptions thereto, and briefs in support of and in opposition to the complaint (oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondents Englishtown Cutlery, Ltd., a corporation, and Norman J. Mercer have violated the provisions of the Federal Trade Commission Act:

It is ordered, That Englishtown Cutlery, Ltd., a corporation, and its officers, and Norman J. Mercer, and said respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection

with the offering for sale, sale, or distribution of their cutlery products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Using on their products or in advertising any pictorial representation or depiction of the British Royal Arms or any simulation thereof; or otherwise representing, directly or by implication, that they are holders of a royal warrant authorizing them to display the British Royal Arms on their products or in their advertising or that cutlery products made in the United States are manufactured in the British Isles.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to the respondents Joseph Berger and Edward W. Ginsburg.

It is further ordered, That the allegations of the complaint pertaining to use in the advertising of the corporate name, "Englishtown Cutlery, Ltd.", and the word "Englishtown" as a brand or product name when used alone or in combination with a circular design depicting a coronet or in conjunction with a simulation of a framed portrait entitled "Dover" be, and the same are hereby, dismissed without prejudice to the right of the Commission to take such further action in the future as the then existing circumstances may warrant.

It is further ordered, That the respondents Englishtown Cutlery, Ltd., and Norman J. Mercer shall, within sixty (60) days from the date of service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: April 4, 1950.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 50-5378; Filed, June 21, 1950; 8:48 a. m.]

[File No. 21-376]

PART 190—SHOE FINDERS INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules of Group I and Group II as hereinafter set forth, which have been approved and received, respectively, by the Commission in this proceeding, be promulgated as of June 22, 1950.

Statement by the Commission. Trade practice rules for the Shoe Finders Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

The industry for which trade practice rules are established is composed of the persons, firms, corporations, and organizations engaged in the sale and distribution at wholesale of leather and rubber shoe repair materials, shoe polish, saddle soap, nails, laces, heel plates, shoe machinery, and other products and materials, for use in the repair, rebuilding, alteration, servicing, cleaning, or preservation of shoes, slippers, sandals, boots, and similar footwear products. Industry members, generally known as "finders," sell to shoe repairmen, retail shoe stores, and to retailers of shoe repair and maintenance materials. Total sales of industry products in 1948, at wholesale, amounted to approximately $100,000,000.

The rules are directed to the maintenance of free and fair competition for the protection of the industry and the buying public. Various trade evils, discriminatory methods, and unfair or deceptive practices, are listed as proscribed.

Trade practice conference proceedings under which the rules have been established were instituted upon application from members of the industry. A general industry conference was held in New York City at which proposals for rules were received and given consideration. Thereafter, a draft of proposed rules in appropriate form was made available by the Commission and public notice given whereby all interested or affected parties were afforded opportunity to present their views, including such pertinent information, suggestions or objections as they desired to offer, and to be heard in the premises. Pursuant to the official notice, public hearing was held in Washington, D. C., and all matters there presented, or otherwise submitted in the proceeding, were duly considered.

Thereafter, and upon full consideration of the entire matter, final action was taken by the Commission whereby it approved and received, respectively, the trade practice rules hereinafter appearing in Group I and Group II.

Such rules become operative thirty (30) days from the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which suppresses competition, restrains trade, fixes or controls price through combination or agreement, or which otherwise injures, destroys, or prevents competition, that the rules are to be applied.

GROUP I

GROUP II

AUTHORITY: §§ 190.1 to 190.102 issued under sec. 6, 38 Stat. 721; 15 U. S. C. 46.

GROUP I

General statement. The unfair trade practices embraced in the Group I rules herein are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

§ 190.1 *Discrimination*—(a) *Prohibited discriminatory prices, or discounts, rebates, refunds, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any discount, rebate, refund, credit, or other form of price differential (whether in the guise of free goods or otherwise), where such discount, rebate, refund, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce,[1] and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce,[1] or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however,*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing herein contained shall prevent persons engaged in selling

[1] As used throughout § 190.1, the word "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

goods, wares, or merchandise in commerce[1] from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing herein contained shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein, where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce[1] to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce[1] to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce,[1] in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

(f) *Exemptions.* The inhibitions of this section shall not apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit. [Rule 1]

§ 190.2 *Inducing breach of contract.* It is an unfair trade practice to induce or attempt to induce the breach of existing lawful contracts between competitors and their customers or their suppliers by any false or deceptive means whatsoever, or to interfere with or obstruct the performance of any such contractual duties or services by any such means, with the purpose and effect of unduly hampering, injuring, or prejudicing competitors in their business. [Rule 2]

§ 190.3 *False invoicing.* (a) Withholding from or inserting in invoices, or sales purchase slips, any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, or sales purchase slips, with the effect of thereby misleading or deceiving purchasers, prospective purchasers, or the buying public, is an unfair trade practice.

(b) To falsify, remove, or fail to furnish, any invoice, sales purchase slip, or other record, with the effect of thereby deceiving purchasers, prospective purchasers, or the buying public, is an unfair trade practice. [Rule 3]

§ 190.4 *Selling below cost.* The practice of selling products of the industry at a price less than the cost thereof to the seller, with the purpose or intent, and where the effect may be, to injure, suppress, or stifle competition or tend to create a monopoly in the production or sale of such products, is an unfair trade practice. As used in this section, the term "cost" means the total cost to the seller of any such transactions of sale, including the costs of acquisition, processing, preparation for marketing, sale, and delivery of such products. [Rule 4]

§ 190.5 *Commercial bribery.* It is an unfair trade practice for a member of the industry, directly or indirectly, to give or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase any shoe service supplies, equipment, or material sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 5]

§ 190.6 *Coercing purchase of one product as a prerequisite to purchase of other products.* The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice. [Rule 6]

§ 190.7 *Defamation of competitors.* The defamation of competitors by falsely imputing to them dishonorable business conduct, inability to perform contracts, questionable credit standing, or by other false imputations, is an unfair trade practice. [Rule 7]

§ 190.8 *Disparagement of competitors' products.* The false disparagement of the grade, quality, quantity, character, or processing of a competitor's products or services is an unfair trade practice. [Rule 8]

§ 190.9 *Misrepresentation as to character of business.* It is an unfair trade practice for any industry member, in the course of or in connection with the sale, offering for sale, or distribution of any industry products, to represent that such industry member is a finder, wholesaler, jobber, or distributor of industry products, or is an agent or sub-agent of a finder, wholesaler, jobber, or distributor of industry products, when such is not the fact; or in any other manner to misrepresent the character, extent, or type of business engaged in by such industry member. [Rule 9]

§ 190.10 *Deception (general).* (a) It is an unfair trade practice to sell, offer for sale, or distribute, or to promote the sale or distribution of, any industry product by any method or under any circumstance or condition which has the capacity and tendency or effect of deceiving purchasers, prospective purchasers, or the buying public, with respect to the kind, quality, utility, serviceability, price, size, durability, appearance, origin, manufacture, treatment, or processing of any industry product, or in any other material respect.

(b) This section is applicable to every kind of deceptive representation, whether in newspaper, periodical, telephone directory, sales catalog, sales promotional literature; or in the form of a label, mark, or brand on, attached to, or accompanying the product or its container; and whether made verbally or in writing. The inhibitions of this section apply not only to affirmative representations, but also to situations where deception is effected by reason of failure to reveal material facts. [Rule 10]

§ 190.11 *Deception through upgrading or misrepresentation of grade or quality.* In the sale, offering for sale, or distribution of shoe leather, whether in the form of bends, strips, whole soles, half soles (taps), or other form, it is an unfair trade practice for any industry member:

(a) To mark, label, advertise, or otherwise represent any such product as being the producer's, tanner's, manufacturer's, cutter's, or other's "first," "choice," "prime," or other designated grade or quality, when such is not the fact; or

(b) To use any trade or grade mark, representation, or designation as to quality of leather which is false, or which is calculated to have or has the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the buying public into the erroneous belief that such leather is of a higher grade or quality than is in fact true. [Rule 11]

See footnote on p. 4000.

§ 190.12 *Misuse of terms "close-outs," "obsolete items," "discontinued lines," etc.* It is an unfair trade practice to offer for sale, sell, distribute, advertise, describe, or otherwise represent, regular lines of industry products as "close-outs," "obsolete items," "discontinued lines," "special bargains," or by words or representations of similar import, when such are not true in fact; or to so offer for sale, sell, distribute, advertise, describe, or otherwise represent industry products where the capacity and tendency or effect thereof is to lead purchasers, prospective purchasers, or the buying public to believe that any such products are being offered for sale or sold at greatly reduced prices, or at so-called "bargain" prices, when such is not the fact. [Rule 12]

§ 190.13 *Enticing away employees of competitors.* Wilfully enticing away the employees of competitors with the purpose and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition is an unfair trade practice: *Provided, however,* That nothing in this rule shall be construed as prohibiting employees from obtaining more favorable employment. [Rule 13]

§ 190.14 *Combination or coercion to fix prices, interfere with purchases of supplies, suppress competition, or restrain trade.* It is an unfair trade practice for a member of the Industry:

(a) To use, directly or indirectly, any form of threat, intimidation, or coercion against any member of the industry or other person to unlawfully fix, maintain, or enhance prices, suppress competition, or restrain trade; or

(b) To enter into or take part in, directly or indirectly, any agreement, understanding, combination, conspiracy, or concerted action with one or more members of the industry, or with one or more other persons, to unlawfully fix, maintain, or enhance prices, suppress competition, or restrain trade; or

(c) By means of any monopolistic practices or through combination, conspiracy, coercion, boycott, threats, or any other unlawful means, directly or indirectly, to interfere with a competitor's right to purchase his supplies from whomsoever he chooses, or to sell his product to whomsoever he chooses. [Rule 14]

GROUP II

General statement. Compliance with trade practice provisions embraced in Group II rules is considered to be conducive to sound business methods and is to be encouraged and promoted individually or through voluntary cooperation exercised in accordance with existing law. Nonobservance of such rules does not per se constitute violation of law. Where, however, the practice of not complying with any Group II rules is followed in such manner as to result in unfair methods of competition or unfair or deceptive acts or practices in commerce, corrective proceedings in respect thereto may be instituted by the Commission as in the case of violation of Group I rules.

§ 190.101 *Maintenance of accurate records.* It is the judgment of the industry that each member should independently keep proper and accurate records for determining his costs. [Rule A]

§ 190.102 *Price lists.* (a) The industry approves the practice of each individual member of the industry independently publishing and circulating to the purchasing trade his own price lists.

(b) The industry approves the practice of making the terms of sale a part of all published price schedules. [Rule B]

Promulgated by the Federal Trade Commission.

Issued: June 19, 1950.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 50-5381; Filed, June 21, 1950; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52500]

PART 19—CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

CUSTOMS INSPECTION STAMPS

Section 19.16 (e), Customs Regulations of 1943, relating to sales price of customs inspection stamps for cigars manufactured in customs bonded manufacturing warehouses, class 6, amended.

The second sentence of § 19.16 (e), Customs Regulations of 1943 (19 CFR 19.16 (e)), is hereby amended to read as follows: "These stamps shall be sold to manufacturers by collectors of customs at the following prices: $1 per thousand for the small stamp, 4" x 1½" in size, and $1.20 per thousand for the large stamp, 8" x 1½" in size."

(R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624. Interprets or applies sec. 311, 46 Stat. 691, as amended; 19 U. S. C. 1311)

The effective date of this amendment shall be July 1, 1950.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: June 15, 1950.

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

[F. R. Doc. 50-5336; Filed, June 21, 1950; 8:46 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg., Amdt. 256]

[Controlled Rooms in Rooming Houses and Other Establishments, Rent Reg., Amdt. 253]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

MICHIGAN

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) are amended in the following respect:

Schedule A, Item 149, is amended to describe the counties in the defense-rental area as follows:

Oakland County, except the Townships of Addison, Brandon, Groveland, Highland, Holly, Independence, Milford, Oakland, Orion, Oxford, Rose and Springfield, and except the Villages of Clarkston, Holly, Lake Orion, Leonard, Milford, Ortonville and Oxford; Wayne County; and Macomb County, except the Townships of Armada, Bruce, Lenox, Macomb, Ray, Richmond, Shelby, Sterling and Washington.

In Washtenaw County, the Township of Ann Arbor and the City of Ann Arbor.

This decontrols the above-named Townships and Villages in Oakland County, Michigan, a portion of the Detroit, Michigan, Defense-Rental Area, on the Housing Expediter's own initiative in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

This amendment shall become effective June 19, 1950.

Issued this 19th day of June 1950.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 50-5335; Filed, June 20, 1950; 8:50 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 660—SHIPPING INDUSTRY IN PUERTO RICO, MINIMUM WAGE ORDER

Pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C., Supp., 1001), notice was published in the FEDERAL REGISTER on May 27, 1950 (15 F. R. 3285) of my decision to approve the minimum wage recommendation of Special Industry Committee No. 6 for Puerto Rico for the Shipping Industry in Puerto Rico, and the wage order which I proposed to issue to carry such recommendation into effect was published therewith. Interested parties were given an opportunity to submit exceptions within 15 days of the date of publication of the notice. No exceptions have been filed, and the time for such filing has expired.

Accordingly, pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201), the said decision is hereby affirmed and made final, and the said wage order is hereby issued, to become effective July 24, 1950.

Sec.
660.1 Approval of recommendation of Industry Committee.
660.2 Wage rate.
660.3 Notices of order.
660.4 Definition of the shipping industry in Puerto Rico.

AUTHORITY: §§ 660.1 to 660.4 issued under sec. 8, 63 Stat. 915; 29 U. S. C. Sup., 208. Interpret or apply sec. 5, 63 Stat. 911; 29 U. S. C. Sup., 205.

§ 660.1 *Approval of recommendation of Industry Committee.* The Committee's recommendation is hereby approved.

§ 660.2 *Wage rate.* Wages at the rate of not less than 75 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the shipping industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

§ 660.3 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the shipping industry in Puerto Rico shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Division may prescribe.

§ 660.4 *Definition of the shipping industry in Puerto Rico.* The Shipping industry in Puerto Rico, to which this order shall apply, is hereby defined as follows: The transportation of passengers and cargo by water and all activities in connection therewith, including, but not by way of limitation, the operations of common, contract, or private carriers; stevedoring (including stevedoring by independent contractors); and storage and lighterage operations.

Signed at Washington, D. C., this 19th day of June 1950.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 50-5394; Filed, June 21, 1950; 8:51 a. m.]

PART 696—BAKERY PRODUCTS INDUSTRY IN PUERTO RICO, MINIMUM WAGE ORDER

Pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C., Supp., 1001), notice was published in the FEDERAL REGISTER on June 3, 1950 (15 F. R. 3487) of my decision to approve the minimum wage recommendation of Special Industry Committee No. 6 for Puerto Rico for the Bakery Products Industry in Puerto Rico, and the wage order which I proposed to issue to carry such recommendation into effect was published therewith. Interested parties were given an opportunity to submit exceptions within 15 days of the date of publication of the notice. No exceptions have been filed, and the time for such filing has expired.

Accordingly, pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201), the said decision is hereby affirmed and made final. The proposed order for the Bakery Products Industry in Puerto Rico published on June 3, 1950, at 15 F. R. 3487, is hereby adopted, with the following modification: a paragraph is added to the definition contained in § 696.4, to read as follows:

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

As so modified, such wage order is hereby issued, as set forth below, to become effective July 24, 1950.

Sec.
696.1 Approval of recommendation of industry committee.
696.2 Wage rate.
696.3 Notices of order.
696.4 Definition of the bakery products industry in Puerto Rico.

AUTHORITY: §§ 696.1 to 696.4 issued under sec. 8, 63 Stat. 915; 29 U. S. C. Sup., 208. Interpret or apply sec. 5, 63 Stat. 911; 29 U. S. C. Sup., 205.

§ 696.1 *Approval of recommendation of industry committee.* The committee's recommendation is hereby approved.

§ 696.2 *Wage rate.* Wages at the rate of not less than 35 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the bakery products industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

§ 696.3 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the bakery products industry in Puerto Rico shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Division may prescribe.

§ 696.4 *Definition of the bakery products industry in Puerto Rico.* The bakery products industry in Puerto Rico, to which this order shall apply, is hereby defined as follows: The manufacture of bakery products of all kinds and of macaroni and other alimentary pastes.

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

Signed at Washington, D. C., this 19th day of June 1950.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 50-5393; Filed, June 21, 1950; 8:51 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 1—GENERAL PROVISIONS

UNIFORMS FOR VETERANS' ADMINISTRATION GUARDS

In § 1.15, paragraph (a) is amended to read as follows:

§ 1.15 *Uniforms for Veterans' Administration guards.* (a) Guards employed by the Veterans' Administration, assigned to and while on duty at any Veterans' Administration field station, will wear uniforms provided at their own expense, as follows:

(1) *Cap.* To be of military type and of a color to match coat and trousers with plain patent leather visor. (Cap insignia will be furnished by Veterans' Administration as soon as available.)

(2) *Coat.* To be blue, of serge, whipcord or other durable cloth. May be single or double breasted as desired, but should be the same for all guards at any one station. For summer wear the coat may be of lightweight khaki cloth or of other durable material of khaki color if desired by the manager and agreed to by the interested guards.

(3) *Trousers.* Of cloth to match coat, regular civilian style.

(4) *Belt.* Black or brown with khaki colored uniform.

(5) *Shirt.* White, light-gray, light-blue for blue uniforms or khaki color for khaki colored uniforms. (The same color should be used for any one station.)

(6) *Tie.* Black, four in hand.

(7) *Shoes.* Black.

(8) *Badge.* (Furnished by Veterans' Administration.) To be worn on left breast of coat. If coat is not worn in warm weather, badge should be worn on shirt.

* * * * *

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016; 38 U. S. C. and Sup. 11a, 426)

This regulation effective June 22, 1950.

[SEAL] O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 50-5331; Filed, June 21, 1950; 8:45 a. m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART A—REGISTRATION AND RESEARCH

In § 21.104 (a) (1), a new subdivision (vi) has been added and former subdivision (vi) redesignated (vii).

§ 21.104 *Rates of subsistence allowance.* (a) * * *

(1) * * *

(vi) Subsistence allowance for periods other than the regular semester, term, or quarter will be authorized at the full, ¾, ½, or ¼ rates according to the certification of the institution that the veteran is pursuing full-, ¾-, ½-, or ¼-time training. In making such certifications the institution will be expected to observe the criteria set forth in this section. The number of credit hours for which the veteran must be registered for credit in order to be authorized the full-time rate of subsistence allowance is that number of credit hours which will require at least 12 standard class sessions of attendance per week or their equivalent in laboratory or field work, research, or other types of prescribed activity. For example: A veteran who is enrolled in a short summer session requiring attendance at 12 standard class sessions per week will be con-

sidered in full-time training although he may be registered for or earn as little as 2 or 3 credit hours for the period involved.

(vii) Subsistence allowance will be paid for only those courses for which the institution certifies that the veteran is enrolled for credit, that is, upon satisfactory completion the veteran will be given credit measured in credit hours.

* * * * *

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 2, 57 Stat. 43, as amended, sec. 400, 58 Stat. 287, as amended; 38 U. S. C. and Sup. 11a, 701, 707, ch. 12 note. Interpret or apply secs. 3, 4, 57 Stat. 43, as amended, secs. 300, 1500–1504, 1506, 1507, 58 Stat. 286, 300, as amended; 38 U. S. C. and Sup. 693g, 697–697d, 697f, g, ch. 12 note)

This regulation effective June 22, 1950.

[SEAL] O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 50-5333; Filed, June 21, 1950; 8:45 a. m.]

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

SUBPART C—TRAINING FACILITIES

1. In § 21.412, paragraphs (a) and (c) (1) are amended to read as follows:

§ 21.412 *Institutions and training establishments for education and training; inclusion of schools, colleges, and business, industrial, and other establishments.* (a) Educational institutions will be considered as schools or colleges, as distinguished from training institutions, when that part of the institution in which the veteran is enrolled as a student is operated solely to give courses of instruction to students. Such schools and colleges may be public or private and will include those listed in paragraph 11, Part VIII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12).

* * * * *

(c) Public Law 346, 78th Congress, as amended by Public Law 679, 79th Congress, prescribes the following with respect to "other training on the job":

(1) Any establishment desiring to undertake an on-the-job training program will be required to submit to the appropriate State approving agency a written application setting forth the course of training for each job objective for which a veteran is to be trained. The written application covering the training program will include the following:

(i) Title and description of the specific job objective for which the veteran is to be trained.

(ii) Length of the training period.

(iii) Schedule listing various operations for major kinds of work or tasks to be learned and showing, for each job operations or work, tasks to be performed and the approximate length of time to be spent on each operation or task.

(iv) Wage or salary to be paid at the beginning of the training program, at each successive step in the program, and at the completion of training.

(v) Entrance wage or salary paid by the establishment to employees already trained in the kind of work for which the veteran is to be trained.

(vi) Number of hours of supplemental instruction required.

* * * * *

2. In § 21.415, paargraph (a) is amended to read as follows:

§ 21.415 *Review.* (a) All veterans who are now pursuing institutional on-farm training courses under Public Law 346, 78th Congress, will be required to fill out VA Form 7–1921 in accordance with the procedure outlined in § 21.7 in order to determine whether such courses which are now being pursued are in accordance with the provisions of Public Law 377, 80th Congress, or this may be done by blanket certification by the approving agency or approved institution for all cases which on September 1, 1947, conform to the provisions of Public Law 377.

* * * * *

3. In § 21.418, the introduction and paragraphs (a) and (c) (1) (i) are amended to read as follows:

§ 21.418 *Approval and disapproval of educational institutions and business or industrial establishments by State approving agency or Administrator.* Institutions and establishments in which education or training is provided must be approved by the appropriate State approving agency of the State in which they are located, or by the Administrator of Veterans' Affairs, as being qualified and equipped to furnish education or training in accordance with Part VIII, Veterans Regulation No. 1 (a), as amended (38 U. S. C. ch. 12).

(a) The appropriate State approving agency, or agencies, designated by the governor will have sole authority to approve educational or training institutions within its State, other than Federal agencies and establishments and except as provided in paragraph (b) of this section:

(1) Officially certified lists in duplicate of approved institutions, including establishments, and of all cancellations from approved lists will be transmitted promptly by the State approving agency direct to the manager of the Veterans' Administration regional office having jurisdiction over veterans' affairs within the area in which such institutions and establishments are located. To the original of each list will be attached a copy of the course of training for each approved training-on-the-job objective. The original of each list of approved institutions and establishments and the original of each notice of cancellation are to be filed in the training facilities section in the Veterans' Administration regional office. Additional distribution may be made as necessary and as arranged with the State approving agency. Where the State establishes a trainee quota, including non-veterans, for establishments or educational institutions, and in cases where trainee quotas are established by job objectives or courses, the Veterans' Administration regional office will record such data in proper form. In addition, where quotas are established for the number of veteran trainees by job objective or course, such data will also be properly recorded.

(2) The State approving agency will submit direct to the training facilities service, vocational rehabilitation and education, Veterans' Administration, Washington 25, D. C., the name of each educational institution within the State which has been approved to offer correspondence courses under Public Law 346, 78th Congress, and will indicate the specific courses for which the institution has been approved. Likewise, the State approving agency will furnish the training facilities service, vocational rehabilitation and education, Veterans' Administration, Washington 25, D. C., the names of any educational institutions offering correspondence courses approval of which has been withdrawn.

* * * * *

(c) When the manager of a Veterans' Administration regional office receives a notice from a State approving agency that a course of training or an institution or establishment in which veterans are enrolled has been removed from the approved list by the State approving agency, prompt action will be taken as follows:

(1) Where the disapproval is of a school:

(i) The manager will request a statement from the State approving agency as to the reasons for the removal of the institution from the approved list and determine whether there is a likelihood that such institution will be reapproved within a reasonable length of time. A copy of the report from the State approving agency will be forwarded promptly to the director, training facilities service, vocational rehabilitation and education, Veterans' Administration, Washington 25, D. C.

* * * * *

4. In § 21.446, a new paragraph (a) has been added, and former paragraphs (a) through (e) redesignated (b) through (f), respectively. (The reference in former paragraph (e) is corrected accordingly to "paragraph (d) of this section".)

§ 21.446 *Adjustment of tuition payments to nonprofit educational institutions*—(a) *Purpose.* The following is established for use in the case of those non-profit institutions requesting an adjustment of customary tuition charges in order to enable the institution to furnish the additional teaching personnel and instructional supplies required for vocational rehabilitation of veterans under the provisions of Part VII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12), where the services being rendered to such veterans are the same services that the institution renders to Part VIII, Veterans Regulation 1 (a), as amended, trainees or to nonveterans enrolled in the same course.

* * * * *

5. In § 21.448, paragraphs (d) and (e) are amended to read as follows:

§ 21.448 *Special conditions.* Some special conditions under which amounts payable may have to be determined are as follows: * * *

(d) *Tutoring for Part VII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12), trainees.* (1) Payment may be

made for tutoring under Part VII when it is indicated that, in order for a veteran to be successfully rehabilitated, there is need for special assistance beyond that given to other students pursuing the same or comparable courses. This policy is based on the fact that under Part VII the Veterans' Administration has a definite responsibility to restore employability lost by a handicap due to service-incurred disability.

(2) Where tutoring service is authorized and prescribed by the Veterans' Administration for a Part VII trainee and such services can be furnished by the institution in which the veteran is enrolled, the regional manager is authorized to include provision for payment to the institution for such tutoring service in the contract with the institution or in a supplemental contract. If the tutoring service cannot be provided by the institution in which the veteran is enrolled, the regional manager is authorized to procure the needed tutoring service from some other institution or from some qualified individual and to execute a contract on VA Form 7-1903, "Proposal for Vocational Rehabilitation Training," to cover payment for such service.

(e) *Reader service.* (1) When reader service is prescribed for the successful pursuit of a course of vocational rehabilitation for a veteran with visual impairment, such service may be furnished in accordance with Veterans' Administration policy and procedure.

(2) The regional manager is authorized to procure needed reader service for trainees under Part VII, as amended, through the execution of written contracts on VA Form 7-1903, Contract for Education and Training, Public Laws 16 and 346, 78th Congress, as amended, with schools in which such veterans are following courses of vocational training; or, if the school is unable to provide adequate service, the manager is authorized to execute such contracts with individuals who adequately meet the qualifications indicated in § 21.279 (c) or with agencies which commonly provide satisfactory reader service.

(3) Where reader service for a veteran in school training is provided by the school as mentioned in subparagraph (2) of this paragraph, provisions for this service may be included in the general contract with the school or in a supplement to the contract.

(4) Trainees with visual impairment who are in training on the job will be provided with reader service only when study is required in connection with their training and when the need for such assistance is established. The regional manager is authorized to procure the needed reader service for such trainees through the execution of written contracts on VA Form 7-1903 with individuals who adequately meet the qualifications indicated in § 21.279 (c) or with agencies which commonly provide satisfactory reader service.

(5) In each contract involving reader service, the rate of payment per hour and the maximum number of hours per week of necessary reader service should be stated under paragraph "second" of VA Form 7-1903, with provision for reducing the number of hours when requirements may be met with a reduced amount of service. It should also be stipulated that payment will be made only for the hours of service actually rendered. The rate per hour for reader service may vary from one community to another, but the hourly rate for such service will not exceed the rate generally paid in the community for reader service for a nonveteran student with visual impairment. The number of hours of service in each case will be determined by the amount of reading necessitated by the course. For school training, the criterion of 2 hours of reading service per week for each credit hour may be utilized as a general guide in estimating the amount of reader service required.

(6) For instructions as to the suitability of any proposed reader or the functions of a reader, see § 21.279 (c) and (d).

* * * * *

6. Sections 21.505, 21.506, 21.507, 21.508, and 21.509 are amended to read as follows:

§ 21.505 *Maximum amount payable for a quarter, semester, or term without accelerating charges to entitlement—* (a) *Enrollment for ordinary school year.* Where the veteran enrolls for an ordinary school year in an educational institution in which the total charges for the ordinary school year are within the rate of $500 for a full-time course for an ordinary school year, such charges will be paid by the Veterans' Administration without regard to the portion allocated to each quarter, semester, or term. Thus, payment will be made when due under Veterans' Administration regulations for a particular quarter, semester, or term within the ordinary school year even though such charges for that particular semester, quarter, or term exceed the pro rata part of the $500 for a full-time course for an ordinary school year. Accleration of charges against entitlement is not required in such cases, and such payments by the Veterans' Administration will not constitute overpayment.

(b) *Enrollment for less than ordinary school year.* Where the veteran enrolls for less than an ordinary school year, the maximum amount the Veterans' Administration may pay for such period of time will be that pro rata portion of $500 that the length of the period of enrollment bears to the length of the ordinary school year of the institution involved. Payment of customary charges in excess of the amount thus determined will be made by the Veterans' Administration only if the veteran elects to exhaust his period of entitlement at an accelerated rate. Where an institution under these circumstances is charging the Veterans' Administration other than customary tuition, the veteran will not be permitted nor required to accelerate charges against entitlement, nor shall the institution be allowed to charge the veteran personally for any amount in excess of the rate of $500. It may be necessary in certain instances to adjust the amount of other than customary tuition that the institution would expect to receive in order to stay within the maximum amount that the Veterans' Administration may pay under the conditions set forth in this section.

(c) *Application of payment policy.* Where the veteran enrolls in an institution for a course where it has been determined that the charges for the ordinary school year will not exceed the rate of $500 for a full-time course for the ordinary school year and then interrupts or discontinues his course at any time prior to the completion of the ordinary school year, the institution will be paid the amount due it under the regulations of the Veterans' Administration without regard to the fact that the amount of such payment, based on the period of the veteran's attendance in the institution, may exceed the rate of $500 for a full-time course for an ordinary school year. Such payments will be made without requirement of accelerating charges against entitlement and will not constitute an overpayment on the part of the finance officer. Examples of this are as follows:

(1) A veteran enrolls at the beginning of an ordinary school year consisting of two semesters for which the total charges are $500, payable $300 for the first semester and $200 for the second semester, and discontinues or interrupts at the end of the first semester. In such a case, the Veterans' Administration will pay the institution $300 for the first semester in the same manner as payment would have been made for a student attending for the full ordinary school year, and the payment of such charges will not require the acceleration of charges against entitlement and will not constitute an overpayment on the part of the finance officer.

(2) A veteran enrolls in a nonprofit institution which has a refund policy for veterans equivalent to that set forth in § 21.656 where the total charges for the ordinary school year of two semesters are $500, payable $300 for the first semester and $200 for the second semester. Such veteran interrupts or discontinues his course at the expiration of 5 weeks. Under the refund policy set forth in § 21.656, the institution is entitled to bill and be paid for the full semester's charges of $300 for such veteran, and the full $300 will be paid by the Veterans' Administration in the same manner and at the same time that payment would have been made had the veteran continued for the full ordinary school year. Payment of the $300 will be effected without the acceleration of charges against entitlement and such payment will not constitute an overpayment on the part of the finance officer.

(3) A veteran enrolls for a 48-week course of instruction at a profit institution but discontinues his training after 4 weeks. The tuition charge for the 48-week course of instruction is $360, and the cost of books, supplies, and equipment actually furnished to the veteran amounts to $100. The Veterans' Administration will pay $100 for books, etc., plus 1/12 of $360 for tuition, without the acceleration of charges against entitlement, and such action will not constitute an overpayment.

§ 21.506 *Determination necessary in case of part-time course.* In the case of

part time, it is necessary to determine whether the charge:

(a) Exceeds the rate of $500 for an ordinary school year.

(b) Is such that a contract is required under Veterans' Administration regulations.

(c) Is allowable under Veterans' Administration regulations.

(d) Requires the acceleration of charges against entitlement by the veteran or payment of additional funds by the veteran.

§ 21.507 *Maximum charge for part-time course without acceleration of charges against entitlement.* In the absence of acceleration of charges against entitlement, the maximum charge to the Veterans' Administration for a part-time course will be that proportion of the $500 allowable for an ordinary school year which the part-time training bears to full-time training.

Examples:

(a) Veteran enrolled for four semester hours of credit for one semester and does not elect to shorten his period of eligibility through the acceleration of charges against entitlement, the charge will not exceed $83.33, derived as follows: 4/12 of one-half of $500.

(b) Veteran enrolled for nine clock hours of required attendance per week for 10 weeks in a part-time course in an institution and does not elect to shorten his period of eligibility through the acceleration of charges against entitlement, the maximum allowable charge will be $52.94, derived as follows: 9/25 of 10/24 of $500.

§ 21.508 *Maximum charge with acceleration of charges against entitlement.* If a veteran is enrolled in a part-time course for an ordinary school year, measured as set forth in § 21.507, and elects to have his period of entitlement charged at an accelerated rate, then it is only necessary to determine whether the charge for the part-time course exceeds the rate of $500 for a full-time course and that a contract is or is not required.

§ 21.509 *Maximum charge for summer session or other period not part of ordinary school year without acceleration of charges.* For purposes of computing the maximum pro rata portion of $500 that can be paid as customary charges by the Veterans' Administration for a summer session, or other period outside of the ordinary school year as defined in § 21.503, without election on the part of the veteran to have the excess customary charges paid by the Veterans' Administration and his entitlement charged with such excess, the following will apply: The maximum payment will be computed as that fractional part of $500 that is derived by using as the numerator of the fraction the number of weeks of instruction in the summer season or other period of instruction and as the denominator the number of weeks of instruction in the ordinary school year as determined by the institution.

7. In § 21.517, paragraph (b) is amended to read as follows:

§ 21.517 *Limitations applicable to payments to institutions for Part VIII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12), trainees.* * * *

(b) *Notification to institution and veteran.* When the estimated total customary charges exceed the rate of $500 for an ordinary school year for a full-time course or a pro rata amount for a shorter or longer period or for part-time study, the maximum amount allowable will be allocated: (1) To tuition and incidental fees, and (2) to books, supplies, and equipment, and other necessary expenses. Unless the veteran elects on VA Form 7–1953 or 7–1909 to have excess charges paid by the Veterans' Administration and a corresponding charge against his entitlement, the veteran and the institution concerned will be considered to be on notice by the execution of the VA Form 7–1953 or 7–1909 that the Veterans' Administration will be responsible only for a total expenditure not to exceed the rate of $500 for an ordinary school year for the tuition, incidental fees, books, supplies, and equipment. Where the veteran does not elect to have excess charges paid by the Veterans' Administration as above, arrangements for any excess amount will be made between the veteran and the institution concerned.

* * * * *

8. In § 21.531 (c), a new subparagraph (1) (iii) is added and subparagraph (2) (ii) is amended as follows:

§ 21.531 *Adjustment of tuition on the basis of the cost of teaching personnel and supplies for instruction.* * * *

(c) *Procedure for calculating the cost of teaching personnel and supplies for instruction.*

(1) * * *

(iii) A sample calculation of the cost of teaching personnel and supplies is provided below with instructions to illustrate the information required and the procedure to be followed in submitting such a calculation.

* SAMPLE OF DETAIL SCHEDULE OF TEACHING SALARIES

(1) Name and department and title	(2) Credit-hour teaching load	(3) Annual 2-term or three-quarter salary	(4) Salary allocated to teaching activities	(5) Salary allocated to research, extension, or other nonteaching activities	(6) Credit-hours for which students are enrolled
College of Arts and Science:					
Mr. A., Dean	3	$6,000	$2,250	$3,750	
Chemistry Department:					
Mr. B., Professor (Department chairman)	8	4,800	4,800		
Mr. C., Associate Professor	6	4,000	2,000	2,000	
Mr. D., Instructor	14	2,400	2,400		
Mr. E., Graduate Assistant		1,000	1,000		
Mr. F., Laboratory Assistant (part time)		600	600		
English Department:					
Mr. G., Professor (Department chairman)	6	5,000	4,000	1,000	
Mr. H., Professor	12	4,600	4,600		
Mr. I., Assistant Professor	3	3,000	800	2,200	
Mr. J., Instructor	16	2,600	2,600		
Total—College of Arts and Science		25,050			2,700

Instructions for detail schedule above are as follows:

Column 1. The name and title of each individual making up the teaching personnel of the institution as defined under paragraph (b) of this section should be listed by departments and divisions.

Column 2. The credit-hour teaching load of the individual teacher and not the contact hour load should be shown in this column. In those cases where a graduate assistant does not actually teach a course but only supervises a laboratory section, no credit-hour load should be shown.

Column 3. Show annual two-term or three-quarter salary of individual teacher. Contributions by the institution to retirement plans should be included as a part of the teacher's salary.

Columns 4 and 5. The definition of the cost of teaching personnel in paragraph (b) of this section should be studied carefully in order to determine the proper allocation of salaries between columns 4 and 5. Column 4 should include only that part of the salary of an individual which represents compensation for teaching. That part of such compensation for teaching which is paid from federal funds must be excluded from salaries reported in column 4.

Column 6. The credit-hours of instruction for which part- and full-time students are enrolled should be calculated for each division or college of the institution in which a student may be enrolled for a full-time course. This information may be obtained by adding the credit-hours for which each student is enrolled as shown on the registrar's student record.

SAMPLE SUMMARY: ESTIMATED COST OF TEACHING PERSONNEL AND SUPPLIES

(1) Department or division	(2) Student enrollment (part and full-time)	(3) Total student credit-hours for which students are enrolled	(4) Total teaching salaries from schedule 2
College of Arts and Science	180	2,700	$25,650
College of Engineering	400	7,200	156,800
College of Business	300	4,200	30,400
College of Agriculture	800	12,000	168,000
Total	1,680	26,100	380,250

Calculation of estimated cost of teaching personnel and supplies for instruction:

Total teaching salaries ($380,250)	= $7.28 per student credit-hour.
Student credit-hours taught per year (2 x 26,100)	
15 percent allowance for related teaching personnel and supplies for instruction	= 1.09
Total	8.37 per student credit-hour.

Instructions for the summary above are as follows:

Column 1. The data on the summary should be summarized by the divisions or colleges in which students may enroll for a full-time course.

Column 2. The total student enrollment including part- and full-time students after eliminating duplicates between divisions should be shown in this column.

Column 3. Enter in this column the total credit-hours for which students are enrolled as shown in column 6 of the detail schedule.

Column 4. Enter totals from column 4 of the detail schedule. Teaching personnel cost per student credit-hour is determined by dividing the total of column 4 by the total of column 3 after converting it to a total comparable to the semesters or quarters covered by the teaching salaries. In the sample shown, the total of column 3 is multiplied by 2. If the credit-hours taught had been for a quarter, then it would have been necessary to multiply by 3.

(2) * * *

(ii) The principles, definitions, and allowances for other teaching personnel and supplies set forth herein will be used to calculate a unit cost for teaching personnel and supplies for instruction. A calculation similar to the sample furnished will be required except that the appropriate unit of payment should be used in place of credit-hours.

* * * * *

9. In § 21.539, paragraph (b) is amended and a new paragraph (n) is added as follows:

§ 21.539 *Furnished by the institution.*

* * *

(b) *Estimates for "supplies"—(1) For Part VIII, Veterans Regulation 1 (a), as amended, (38 U. S. C., ch. 12), trainees.* After the veteran has been admitted, the institution will forward to the regional office of the Veterans' Administration the VA Form 7–1909 or 7–1953. On this form the institution certifies the veteran's course and the estimated charge for tuition, fees, and "supplies." The importance of such total estimate is twofold:

(i) To determine whether the total charge will exceed the rate of $500.

(ii) To serve as a guide to all concerned as to the probable charge for supplies.

(2) *For Part VII, Veterans Regulation 1 (a), as amended, trainees.* The estimate for "supplies" ordinarily will be stipulated in the contract.

* * * * *

(n) *Limitations on payment for tools, supplies and equipment.* (1) Under the provisions of paragraph 5, Veterans Regulation 1 (a), as amended, the Administrator may pay for books, supplies, equipment, and other necessary expenses as are generally required for the successful pursuit and completion of the course by other students in the institution. Paragraph (e) (1) of this section provides that the institution will assure itself that the Veterans' Administration is not billed for "supplies" at an unreasonable price and paragraph (e) (6) of this section provides that if the institution furnishes items of "supplies" specifically purchased for trainees only (i. e., not handled through a book or supply store for all students), such items will be billed at cost to the institution. Under the regulations in this section the Veterans' Administration will pay for "supplies" at prices regularly and customarily charged to other students where there are substantial numbers of students other than those pursuing courses under the provisions of Part VII and Part VIII, Veterans Regulation 1 (a), as amended, and where there is a well established policy of the institution with respect to the requirement for the student to furnish personally the "supplies."

(2) In all other cases of institutions or courses established subsequent to June 22, 1944, where the enrollment in the institution or courses involved consists solely or primarily of veterans pursuing courses under the provisions of Part VII and Part VIII, as amended, the Veterans' Administration will pay for "supplies" at a price not in excess of the lowest wholesale price at which the "supplies" may be purchased in a competitive market. This policy is for application in the case of all "supplies," including those for which separate reimbursement is made to the institution and those which are included in the over-all tuition or fee charge.

(3) Effective June 22, 1950, the Veterans' Administration will not agree prospectively to pay for tools, supplies, and equipment, unless such items are provided at the rate established by the lowest of at least three bids from reputable and reliable established dealers or distributors. Therefore, prior to the negotiation or renewal of any contract, and prior to the approval of payment bases for tools, supplies, and equipment for educational institutions receiving payment without a contract, each educational institution affected under subparagraph (2) of this paragraph will be required to submit, or make available, to the Veterans' Administration such data and information as will clearly indicate to the satisfaction of the Veterans' Administration that the agreed amount to be paid by the Veterans' Administration for items necessary for veteran training under Part VII and Part VIII is no greater than the lowest price at which such items can be procured in a competitive market. Acceptable bids will show prices for items delivered at the school (i. e., f. o. b. the school) and also will show all trade discounts. Where tools, supplies, and equipment are purchased by the Veterans' Administration for veterans who are training on the job, which are the same or comparable to those required by the school to be furnished for veterans, the Veterans' Administration regional office will inform the educational institution that one of the bids must be from such a Veterans' Administration designated supply source. After the Veterans' Administration has determined that the items have been or will be procured at a reasonable price, the source of supply is not a matter of concern for the Veterans' Administration.

(4) Under existing contracts with institutions affected under subparagraph (2) of this paragraph, the Veterans' Administration will not pay a marked-up price to the institution (whether or not within retail or list price) where the supplies have been procured from or through a dummy corporation or other affiliate of the institution but will pay for such supplies at an amount not in excess of the cost thereof to such dummy corporation or affiliate.

(5) In addition to the above limitations respecting the payment for tools, supplies, and equipment, it is emphasized that only the amounts and kind of tools, supplies, and equipment which normally are required by well-established schools offering the same or similar instruction and which are essential to the training process will be provided for training of veterans under Part VII and Part VIII, as amended. Under the provisions of Part VIII, as amended, the Veterans' Administration has no authority to furnish personally to a veteran enrolled in institutional training any tools, supplies, and equipment which have been customarily maintained by well established educational institutions and issued to students from a central tool room or tool crib as needed during classroom periods; or which are maintained at central points in a classroom or laboratory on tool boards, benches, racks, stands, or in cabinets, where they can be used as needed by individual students without materially delaying or retarding the progress of other students; or which are maintained for the use of instructors to demonstrate processes to groups of students or to check, test, or gauge periodically the results of student work. Such tools, supplies, and equipment shall be considered capital equipment to be furnished by the institution as distinguished from those tools, supplies, and equipment each student is customarily required and expected to own and which he needs to have in his possession at all times in his tool kit or on his desk or bench at each class period in order to progress satisfactorily in training without disrupting the work of other students.

10. In § 21.548, paragraph (a) is amended to read as follows:

§ 21.548 *Payments for cooperative course.* (a) Payments to the institution will be only for that portion of training or instruction given by the institution. The basis for charge will be determined in the light of the applicable portion of §§ 21.468 through 21.478, 21.484, 21.485, 21.493 through 21.495, and 21.503 through 21.509.

* * * * *

11. In § 21.549, paragraph (b) is amended to read as follows:

§ 21.549 *Payments for related training.* * * *

(b) Tuition charges will be determined in accord with applicable portions of §§ 21.468 through 21.478, 21.484, 21.485, 21.493 through 21.495, and 21.503 through 21.509.

* * * * *

12. Section 21.557 is amended to read as follows:

§ 21.557 *Payments in lieu of tuition and fees.* Hospitals approved by the appropriate State agency for training in connection with residencies for qualified

physician veterans enrolled under Part VIII, Veterans Regulation 1 (a), as amended (38 U. S. C., ch. 12 note), (or Part VII), may be paid as follows: For courses of more than 30 weeks (residency training usually covers 52 weeks) in accord with the bases set forth in §§ 21.468 through 21.478 or 21.484 and 21.485. When payment is requested on the basis of § 21.475, the hospital will be required to deduct the value of services rendered by the individual from the cost of teaching personnel and supplies for instruction in arriving at the compensation to be paid for training.

13. In § 21.609, paragraph (a) is amended to read as follows:

§ 21.609 *Payment under contracts.* (a) Vouchers may be submitted at the end of each month covering the actual hours of flight and ground instruction and books and supplies furnished the eligible enrolled veterans during that month. Vouchers need show only the name and C-number of each veteran, the period covered by the voucher, and the amount due for the month for each veteran for books and supplies, ground instruction, and flight instruction. For each veteran listed on the voucher, there must be attached a certificate, VA Form 7–1970, Individual Student Flight and Ground Instruction Attendance and Charge Record for Instruction Furnished Under Public Laws 16 and 346, as amended, which contains a detailed statement signed by the individual veteran showing for that period:

(1) The actual number of classroom ground hours of instruction received for each subject and the charge therefor.

(2) The actual number of flight hours of instruction, dual and solo, received and the charge therefor.

(3) The type and horsepower of equipment in which the flight instruction was received.

(4) A statement that the flight hours certified on the voucher agree with the flight hours for the period as recorded in the pilot's log book of the veteran.

(5) The books and supplies furnished for the course during the month.

* * * * *

14. Section 21.637 is amended to read as follows:

§ 21.637 *Termination of contracts under Part VII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12).* Under Part VII the Veterans' Administration has complete responsibility for the veteran-trainee. When the regional office considers that fraud has been committed against the Government, or that the contractor is not furnishing the courses of instruction as required by the terms of the contract and the contractor has refused to correct the condition, or that the best interests of the Government or trainees will be served by termination to be effected by the withdrawal of trainees from the establishment or institution, the full particulars pertaining to the desired termination, together with the recommendations of the regional office will be forwarded to central office for the authority to terminate the contract pursuant to the provisions of article 6 of the contract, VA Form 7–1903.

15. In § 21.638, paragraph (a) is amended to read as follows:

§ 21.638 *Termination of contracts under Part VIII, Veterans Regulation 1 (a), as amended (38 U. S. C. ch. 12).* (a) Article 6 of VA Form 7–1903, Contract for Education and Training, Public Laws 16 and 346, 78th Congress, as amended, authorizes the Veterans' Administration to terminate a Part VIII contract in its entirety or partially upon notice in writing to the contractor 60 days prior to the effective date of termination. The regional office is authorized to cancel the entire contract or any part thereof without prior approval when it is determined that all or part of the services furnished under the contract will no longer be required for training eligible veterans and that such termination of the contract is, therefore, desirable. Proper accomplishment of termination should be made by use of a contract terminating notice and a contract termination supplement. Where the termination is to be accomplished in less than 60 days, the contract termination supplement should accompany the contract terminating notice.

* * * * *

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 2, 57 Stat. 43, as amended, sec. 400, 58 Stat. 287, as amended; 38 U. S. C. and Sup. 11a, 701, 707, ch. 12 note. Interpret or apply secs. 3, 4, 57 Stat. 43, as amended, secs. 300, 1500–1504, 1506, 1507, 58 Stat. 286, 300, as amended; 38 U. S. C. and Sup. 693g, 697–697d, 697f, g, ch. 12 note.)

This regulation effective June 22, 1950.

[SEAL] O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 50–5334; Filed, June 21, 1950; 8:46 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter C—Management of Wildlife Conservation Areas

PART 34—SOUTHEASTERN REGION

SUBPART—CAPE ROMAIN NATIONAL WILDLIFE REFUGE, SOUTH CAROLINA

FISHING

Basis and purpose. On the basis of observations and reports of field representatives of the Fish and Wildlife Service, it has been determined that public fishing in certain of the waters of the Refuge can be permitted without interfering with the primary purpose of the Refuge. Inasmuch as the following regulation is a relaxation of the present prohibition against fishing on the Refuge, the notice and public rule-making procedure required by the Administrative Procedure Act (60 Stat. 237, 5 U. S. C. 1001 et seq.) are hereby found to be impracticable and the effective date requirement of the Administrative Procedure Act does not apply.

Effective immediately upon publication in the FEDERAL REGISTER, the following subpart is added:

SUBPART—CAPE ROMAIN NATIONAL WILDLIFE REFUGE, SOUTH CAROLINA

FISHING

Sec.
34.26 Fishing permitted.
34.27 State fishing laws.
34.28 Use of boats.

AUTHORITY: §§ 34.26 to 34.28 issued under sec. 10, 45 Stat. 1224; 16 U. S. C. 715i.

§ 34.26 *Fishing permitted.* Non-commercial fishing is permitted during the daylight hours in all the waters of the Cape Romain National Wildlife Refuge, South Carolina, except Cape Island Pond, during the period from April 1 to September 30, inclusive, of each year in accordance with the provisions of the regulations in Parts 18 and 21 of this chapter and subject to the conditions, restrictions, and requirements of §§ 34.27 to 34.28.

§ 34.27 *State fishing laws.* All persons must comply with all State fishing laws and regulations and must have on their person and exhibit at the request of any authorized Federal or State officer whatever license is required by such laws and regulations, which license shall serve as a Federal permit for non-commercial or sport fishing in the waters of the Refuge that are open to fishing.

§ 34.28 *Use of boats.* Persons may use boats (except motor boats), canoes, or floating devices for fishing only on the waters of Jack's Creek Pond and must place such boats, canoes, or floating devices on Jack's Creek Pond only at such point or points as may be designated by posting by the officer in charge. The use of boats is prohibited on all other waters of the Refuge and the use of motor boats, either inboard or outboard, is prohibited on all waters of the Refuge except for official purposes. Fishing from dikes, dams, and water control structures and the building of fires on such dikes or dams are prohibited.

O. H. JOHNSON,
Acting Director.

JUNE 15, 1950.

[F. R. Doc. 50–5357; Filed, June 21, 1950; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 915]

[Docket No. AO-208]

HANDLING OF MILK IN THE AKRON, OHIO, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT, AND TO PROPOSED ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed order, regulating the handling of milk in the Akron, Ohio, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C. not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and the proposed order were formulated was conducted at Akron, Ohio, on November 14–18, 1949, after the issuance of notice on October 21, 1949 (14 F. R. 6523).

The material issues on the record were (1) whether the handling of milk in the Akron, Ohio, marketing area is in the current of interstate commerce or burdens, obstructs or affects interstate commerce, (2) whether an order should be issued to regulate the handling of milk in the Akron, Ohio, marketing area, and (3) if an order is issued, what its provisions should be. With respect to the last point several questions were developed. These were concerned with: (a) The extent of the marketing area, (b) the definitions of fluid milk plant, route, producer, handler and producer-handler, (c) the classification of skim milk and butterfat, (d) the level of class prices, (e) the payment to producers, (f) the amount of the administrative assessment, (g) the amount of the deduction for marketing services, and (h) the administrative provisions common to all orders.

Findings and conclusions. Upon the basis of the evidence adduced at such hearing, it is hereby found and concluded that:

(1) The handling of milk in the Akron, Ohio, marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in the handling of milk and its products.

Shipments have been received from Fort Wayne, Indiana, by distributors in the Akron market at various times and 2,500 gallons of milk were being received approximately twice each week by an Akron distributor at the time of the hearing. This milk was intermingled with milk received from local producers and sold to consumers in Akron and vicinity.

During the last year an Akron distributor shipped milk to Birmingham, Alabama; and Asheville, North Carolina; and condensed milk to Pittsburgh, Pennsylvania; New York, New York; and other points outside the state of Ohio.

A plant where Swiss cheese is manufactured handles only excess Akron inspected milk of fluid milk distributors. This plant during several months in 1949 received from 15,000 to 17,000 pounds of such milk per day, manufactured it into cheese and sold approximately 70 to 75 percent of the cheese outside of the state of Ohio.

The city of Akron, Ohio, is near the cities of Canton, Youngstown, Warren, and Cleveland, Ohio; and Pittsburgh, Pennsylvania; and is located between the latter two cities. The fluid milk supply for the city of Akron is produced in an oblong area extending to the northeast and southwest of Akron. This area is located between and overlaps the milksheds of the large interstate markets of Cleveland, Ohio; and Pittsburgh, Pennsylvania. Much of the milk supply of Akron is in direct competition with that of these larger markets and there have been frequent shifts of milk producers from one to another of these markets. Four milk receiving stations supplying milk to the Cleveland market and the plant of one Cleveland distributor are located within the Akron milkshed. Competition with the Pittsburgh market for milk has been particularly intense in recent months and at the time of the hearing a producers' cooperative association supplying milk to distributors in the Akron market had pending requests from approximately 115 producer members to transfer to the Pittsburgh market. A small number had already transferred to that market. The milksheds of Canton, Youngstown, and Warren, Ohio, also overlap the Akron milkshed.

Milk distributors who supply the Akron market also sell milk in direct competition with distributors who supply the Canton, Cleveland, Youngstown, and Warren markets. A substantial part of the milk supply of distributors who supply the Youngstown market is produced in Pennsylvania and part of the sales of the distributors are made in Pennsylvania.

Manufactured dairy products are customarily shipped in interstate commerce. There are 28 dairy manufacturing plants located in the Akron milkshed and they compete with Akron fluid milk distributors for their supply of milk.

From the foregoing it is evident that a substantial volume of milk in the Akron, Ohio, market is moved physically in interstate commerce in the form of milk and manufactured dairy products and that the handling of milk in the market directly burdens, obstructs, or affects interstate commerce in milk and its products.

(2) An order regulating the handling of milk in the Akron, Ohio, marketing area should be issued.

The elements of instability characteristic of large urban milk markets have been seriously aggravated in the Akron market in recent months by the policies and practices of certain of the handlers of milk in the area. As a result the procedures for establishing prices to farmers for milk are breaking down. Over a period of time this will mean short supplies of milk which meets the market requirements and higher prices.

The distinctive features of such a market are variations in the prices paid by milk dealers for milk used in fluid form, and in the efforts made by dealers paying lesser prices for milk so used to exploit this situation so as to capture a larger share of the market. In such a situation steady deterioration of producer prices to levels approaching the value of milk used for manufacture may be anticipated. The maintenance of adequate supplies of milk of better than manufactured quality cannot be expected under such conditions.

In the Akron market, organized producers have attempted to use a classified price plan as the means for pricing milk to handlers. In its simplest aspect, such a plan contemplates that handlers pay a price for milk going into bottles which reflects the additional costs of producers in producing such milk, and pay a price for milk used for manufacture which reflects the lower values of manufacturing milk. Each handler's cost for milk in the same use is identical, but each handler's payment for milk varies in relation to the volume sold in bottles and used for manufacture. These payments are then pooled so that the price paid organized producers represents the average of the various uses made by participating handlers.

It has been ascertained further that certain Akron handlers have not paid similar "use" prices but have paid producers the computed average price, despite greater than average sales of milk in bottles on their part. The amount of this advantage is indicated by comparing the price paid by a handler for milk received in May 1949 with the uniform or blend price which would have resulted by applying the class prices paid by handlers buying on a use basis to his estimate of his utilization. The comparison shows that if the milk had been purchased on a use basis at prevailing class prices the uniform or blend price to be paid producers by this handler would have been somewhat more than 35 cents per hundredweight higher than the price actually paid by him. The procurement of

milk for bottles from producers at lower cost than that incurred by other handlers has resulted in extreme competition among handlers in the procurement of milk at lowest prices. Producers of milk have been unable to protect themselves from the effects of this competition.

The major factors which contribute to this, and hence to marketing instability and uncertainty of prices, are (a) the physical characteristics of milk, (b) the supply conditions for milk, and (c) the nature of the demand for milk.

(a) Milk is perishable and bulky and because of these characteristics very complex and highly integrated transportation systems have been set up in the Akron market so that milk may be shipped from farms to milk plants every day on a fast and regular schedule. In order to perform this transportation function in a most economical manner, however, milk transportation routes are generally limited so that there is only one or a few in each area. While integration of milk collection systems in this way introduces efficiencies in transportation, this integration limits severely, at least over short run periods, the choice of markets which a producer for the Akron market has for his milk because ordinarily a producer must sell his milk to a milk dealer who maintains transportation routes within reasonable distance of the producer's farm.

Since milk is perishable and particularly subject to bacterial contamination it must be produced under strict standards of cleanliness and sanitation. In order to protect the milk supply of consumers in the Akron area the City of Akron (and adjacent townships) have promulgated health ordinances respecting the production and marketing of milk. The Akron milk ordinance, for instance, requires milk producers to provide themselves with a barn of specified dimensions as to light, air, water supplies, flooring materials, ceilings, and walls. Producers must provide approved cooling equipment and a special milk house in which to cool and store milk. They must observe certain practices regarding the cleanliness of the dairy animals and the workers who come in contact with the dairy animals.

This additional equipment and these special practices require the expenditure of money, time, and effort in addition to that required of milk producers who do not produce milk for the Akron market but sell their milk instead for manufacturing into such products as evaporated milk, butter or cheese. In order to induce a farmer to make the additional outlays, particularly those expenditures for barns, milk houses and the like, reasonable assurance of stable markets and satisfactory prices must be given.

The fact that milk is bulky and perishable contributes to market instability and price variation. Because of these characteristics farmers cannot retain milk on their farms to await favorable price conditions. The milk must be shipped every day irrespective of whether prices are favorable or not. These physical characteristics of milk are among the important contributing factors to the inherent instability of milk marketing in the Akron area.

(b) The supply of milk for the Akron market is difficult to control, it is relatively unresponsive to price changes, and on a seasonal basis it is generally unrelated to the needs of the market for milk in whole fluid form. The reasons for these conditions stem from the nature of dairy cattle and certain inherent economic conditions related to the production of milk for the Akron market.

The breeding characteristics of dairy cattle and the varying availability of fresh pasturage seasonally causes the production of milk in the Akron market to follow a pronounced seasonal cycle. More milk is produced in the spring and summer and less milk is produced in the fall and winter. This pronounced seasonality in the production of milk in the Akron market makes it impossible to adjust supplies of milk to the sales of milk in whole fluid form at all times of the year. If the market is adequately supplied during the period of short production in the fall and winter there will obviously be more milk produced during the spring and summer than the market needs for consumption in whole fluid form. The presence of this seasonal excess presents difficult pricing and marketing problems which, if not resolved, will cause prices in this market to fall to uneconomic levels.

In addition to the problem of seasonality of production, market supplies of milk cannot be kept closely adjusted to sales for another reason. Milk production is the result of a physiological process. Over short periods of time it is impossible to control closely the amount of milk which cows will produce and over longer periods of time it may be extremely difficult. Cows produce milk during periods of low prices and sometimes fail to produce in periods of high prices. Moreover, in order to maintain his cows in good health a farmer is required to feed and care for them even when the returns from the sale of milk are not favorable and the cows, in turn, will continue to produce milk while they are fed adequately and cared for.

Economic conditions impel farmers to continue the production of milk for city markets even during periods when the return from the sale of milk does not cover the necessary costs of production, and for this reason also supplies do not respond quickly to change in prices. A milk producer who has provided himself with a barn, milk house or other equipment necessary to comply with the sanitation requirements of the Akron market will continue to furnish milk to the market even though prices are reduced substantially. The reason for this is that a large proportion of the costs of milk production for the Akron market are "sunk" or "fixed." Milk producers are impelled to continue to produce milk whenever they obtain prices in excess of the direct costs of production. Thus prices can be maintained at unreasonably low levels for long periods of time before the effects of such prices are apparent in reduced supplies of milk. Even though they may not be apparent immediately, forces nevertheless are at work in periods of depressed prices which cause future reductions in supply. When shortages occur prices must rise. But again, because supply responses are slow to develop, prices tend to rise to high levels which then tend to induce a more than adequate supply at some future time. A pattern of shortages and surpluses of supply is typical of an unstable milk market. In recent years the supply of milk in Akron has been alternately either inadequate or more than adequate for the needs of the market. These tendencies toward excessive price variation are accentuated by the nature of the demand for milk.

(c) Consumers in the Akron market vary their consumption of milk rather considerably from day to day. Changes in the weather, occurrence of holidays, week-ends, and the like, all have effects upon the consumption of milk in this market. The consumption of milk over longer periods, however, is quite even and there is relatively little seasonal variation in consumption. The supply of milk, on the other hand, is fairly uniform from day to day but varies markedly over the seasons. As a result of these divergent movements in supplies and sales of milk it is necessary that a reserve of milk be on hand at all times so that variations in supplies of milk on the one hand, and variations in sales of milk on the other may be taken care of. It appears that a reserve (hereafter referred to as the "necessary reserve") of about 10 to 15 percent during the period of the shortest production in the fall and winter is necessary to assure this market of adequate supplies at that time. At other times of the year, because of the seasonal swing in production, the excess of milk over and above that consumed in fluid form will necessarily be greater.

Consumers in the Akron market, like consumers of milk everywhere, do not change their milk drinking habits quickly in response to changes in milk prices. (This is not to say that habits do not change over longer periods of time.) Because Akron consumers do not change their milk drinking habits quickly, a slight increase in the supply of milk would result in a greatly decreased price for milk if prices to farmers were allowed to move freely. On the other hand, a slight shortage of milk, if it were not relieved by emergency supplies from outside the local supply area, would result in a very drastic increase in the price for milk. Stated in other terms this means that moderate reductions in milk prices do not induce proportionate increases in consumption of milk and as a consequence a moderate reduction in price does not result in the consumption in fluid form of seasonal and other temporary surpluses of milk. Prices therefore tend to fall to the levels of manufacturing milk whenever a relatively slight surplus of milk occurs and a price at this level obviously is too low for milk produced for consumption in Akron because of the additional expenditures which necessarily must be made on it to meet the city's sanitation standards.

Whenever the Akron market is adequately supplied with milk a strong tendency exists for milk prices to fall to

unsatisfactory levels. The reason for this is that when the market is adequately supplied there will be a "necessary reserve" of 10–15 percent in the period of seasonally low production and this amount will be even greater during the period of seasonally high production. The presence of this necessary reserve and seasonal excess in the Akron market has a depressing effect upon prices paid to farmers and is a constantly unstabilizing influence on the marketing of milk in this area.

The elements, therefore, which contribute to the instability of milk marketing in the Akron area are (1) the product is perishable and bulky, (2) it is produced every day and must be marketed every day, (3) the supply of the product cannot be controlled closely over short periods and is unresponsive to changes in price, (4) the cost of producing milk for the Akron market is higher than for producing milk for manufacturing purposes, (5) sales of milk vary considerably from day to day but are fairly constant over longer periods, and (6) sales of milk do not change quickly in response to changes in prices. Because of the pronounced seasonal variations in the production of milk which are unrelated to variations in sales it is not possible to adjust supplies and sales of milk even over rather long periods. Moreover, the lack of elasticity in both the supply of milk and the demand for it and particularly the necessity for maintaining a "necessary reserve" and seasonal surplus in this market result in prices paid to farmers for milk which are subject to wide and unpredictable variations and which, when the market is adequately supplied, tend to fall to unsatisfactory levels.

The classified price plan, whereby all milk distributors pay the same price for milk for the same use, and producers receive a uniform price based on all uses of milk by all distributors, is being broken down in the Akron market by purchases of milk without regard to use by handlers having a relatively high proportion of sales in the higher value classes. Class I sales (largely bottled milk) of handlers participating in the classified price plan dropped 17.8 percent in the period from the first half of 1946 to the first half of 1949 and in September 1949, such sales were down 21.6 percent from September 1946, a decrease of almost 6,000 gallons daily. The increase in such sales by a non-participating distributor during this same period was more than the loss of participating distributors. This indicates a transfer of sales rather than any decrease in consumption.

A large volume of milk (equivalent to the production of approximately 420 average sized dairy farms) purchased from other areas when ample supplies of local producer milk were available has caused an approximately equal volume of Akron inspected, locally produced milk to be used in lower priced classes and thus has lowered the blend or uniform price to the financial disadvantage of the local producers and to the financial advantage of distributors buying at the blend or uniform price and selling a relatively high proportion of their milk as fluid milk. Partly as a result of the above practices, the use of milk of local producers in the lowest priced class has increased from 7.1 percent of all such milk in the first half of 1946 to 31.7 percent in the first half of 1949, an increase of 346 percent. During this same period of time utilization in the lowest priced class in 21 major markets in Ohio (including Akron) changed only from 16 percent to 28 percent, an increase of 75 percent.

The disorderly state of the market and the prevailing inefficient and wasteful marketing practices are shown by the situation in the Akron market in 1949. During the late spring one group or more than 60 percent of the regular Akron producers had over 40 percent of their milk utilized for manufacturing purposes in the lowest priced class (Class III) while at the same time milk of 120 producers was being transported for fluid use in the market from a plant some 75 miles distant from Akron. Later in the year Akron producer milk was being diverted to the Cleveland market while at the same time milk for fluid use in Akron was not only being received from the plant mentioned above but was also being transported from a plant in Fort Wayne, Indiana. These uneconomic practices were being continued at the time of the hearing.

The serious effect of the milk purchasing practices heretofore described on the incomes of dairy farmers supplying milk to the Akron market is shown by the change in the relative level of prices received by these dairy farmers and by dairy farmers supplying milk to the nearby Cleveland market. The average price received by producers participating in the Akron pool was 15 cents per hundredweight above the average uniform producer price in the Cleveland market for the year 1946; 17 cents per hundredweight above the Cleveland average uniform price for the years 1947 and 1948, but dropped to 18 cents below the Cleveland average uniform price for the first 9 months of 1949.

While complete and accurate market statistics were compiled for milk receipts and utilization by distributors participating in the equalization pool, no complete statistics were available with respect to malk receipts and utilization by non-participating distributors. Thus no market-wide statistics have been available to producers and distributors for purposes of determining equitable prices or the adequacy of supply.

Under the provisions of an order producers would be supplied with market information which is necessary for the efficient marketing of their milk and the public procedures inherent in a marketing agreement and order program would give producers an opportunity to express their views and take an active part in improving marketing conditions. The auditing of handlers' utilization of milk and the checking of weights and tests by an impartial agency under an order would aid in establishing and maintaining orderly marketing conditions by assuring producers that they will receive a proper accounting for their milk.

(3) The proposed marketing agreement and order which is attached hereto and made a part hereof is recommended as meeting the needs of the Akron, Ohio, marketing area. There follows a brief discussion of the pertinent provisions.

(a) *The marketing area.* The marketing area should be all territory including all municipal corporations within Summit County, Ohio.

Several proposals were made with respect to the territory to be included in the marketing area and considerable testimony was given both favoring and opposing the various territories. In general, distributors selling in Akron desired a relatively large marketing area which would include substantially all the territory within which they operated routes. Distributors not selling in Akron favored a restricted marketing area which would exclude all the territory within which they operated routes. However, if any territory within which they operated routes were to be included in the marketing area, several of these distributors wished to have the marketing area enlarged so as to include all territory within which they operated routes.

Some proposals included several territories within each of which milk for consumption as milk is subject to the sanitary regulations of different health authorities. The number of such health authorities, the nature of the sanitary regulations in effect and a comparison between such regulations and those in effect in the Akron market were not shown.

The marketing area should be limited to Summit County, Ohio. The sanitary regulations for milk to be used for fluid consumption in this territory are administered by only two health authorities and their requirements with respect to the production and handling of milk are similar. A majority of the sales made by milk distributors whose operations are primarily in the Akron market are in this territory and only a minority of the sales made by milk distributors whose operations are not primarily in the Akron market are in this territory.

(b) *Definitions.* "Fluid milk plant" has been defined as a bottling plant except a bottling plant of a producer-handler, located in the marketing area and from which a route is operated or located outside the marketing area and from which a daily average of 600 pounds or more of Class I milk is disposed of during the month on routes in the marketing area.

Any bottling plant, except the bottling plant of a producer-handler, located in the marketing area and from which routes are operated and any bottling plant located outside the marketing area from which a daily average of 600 pounds or more of Class I milk is disposed of on routes in the marketing area during the month would be a fluid milk plant.

No farm permits are issued except for farms from which milk is delivered directly to bottling plants. While supplementary supplies of Class I milk may be received from other plants during times of shortages or emergency, it does not appear that orderly marketing conditions would be improved by including such plants in the definition of a fluid milk plant. There was no proposal and no testimony was offered with respect to their inclusion.

Because of the nearness of Akron to several other cities in Ohio there is a certain amount of overlapping of the routes of Akron distributors with those of distributors in the other cities, particularly Canton. Both producers and distributors proposed that the operator of a bottling plant located outside the marketing area be exempt from the pooling and payment provisions of the order if route disposition of Class I milk in the marketing area was less than 25 percent of all such disposition. It was further proposed that each hundredweight of such disposition in the marketing area be subject to a payment to the producer-settlement fund of an amount equal to the difference between the price of Class I milk and the price of Class III milk. Distributors who would be so affected have been serving customers within the proposed marketing area for long periods of time, their costs of milk and retail prices are similar to those of distributors in the area and some of such distributors are subject to pooling arrangements in their major markets. This arrangement would be disrupted by making their milk a part of the Akron pool. It is believed that the proposed definition which exempts milk of less than a daily average of 600 pounds of Class I milk per month would not result in hardship to Akron producers or handlers and would permit the continuation of established routes in the proposed marketing area without disruption to any pooling arrangements in such distributors' major markets. In case such distributors disposed of more than a daily average of 600 pounds of Class I milk per month on routes in the marketing area, all of the provisions of the order would apply.

"Route" has been defined as a delivery (including a sale from a plant store) of milk, skim milk, flavored milk or flavored milk drinks in fluid form to a wholesale or retail stop.

Distributors proposed the following definition of route: "Route" means a sale or delivery (including a sale from a plant or plant store) of milk, skim milk, flavored milk, or flavored milk drink in fluid form, to a wholesale or retail stop(s), including the sale or consignment of such products by a handler to wholesale or retail outlets owned, leased, or controlled, directly or indirectly, by such handler.

It is concluded that such proposal should not be adopted as such a lengthy definition is not needed to express the intention of the definition, i. e., that the definition include all deliveries or sales of Class I milk in packaged form to consumers in the market regardless of whether such milk is delivered to the customer or the customer goes to a store or plant and gets the milk.

"Producer" has been defined as any person, other than a producer-handler, who produces milk which has approval of the appropriate health authorities for consumption as milk in the marketing area and which is received at a fluid milk plant or diverted by a handler to a plant other than a fluid milk plant.

Any person, other than a producer-handler, who produces milk which has approval of the appropriate health authorities for consumption as milk would be a producer if such milk were received at a fluid milk plant.

If milk is diverted by a handler to a plant other than a fluid milk plant such milk is deemed to have been received at a pool plant and the person producing such milk remains a producer during the time his milk is diverted.

"Handler" has been defined as the operator of a fluid milk plant, the operator of a plant other than a fluid milk plant from which a route is operated in the marketing area, or a cooperative association with respect to the milk which it diverts to a plant other than a fluid milk plant.

Any person operating a route in the marketing area would be a handler. A cooperative association diverting milk to a plant other than a fluid milk plant would also be a handler. Handlers objected to having a cooperative association defined as a handler. Producer milk has been diverted to manufacturing plants in the past by the handler to whom the producer customarily delivered his milk. There is no assurance such a practice will continue although it is permitted under this proposed order. Production during the flush period is more than the market's requirements. If a handler should refuse to accept milk at such times from certain producers, these producers would then be out of the pool unless their milk was received by another handler even though the milk might be needed later. In order to keep this milk available to the market when needed, the cooperative association should be a handler with respect to the milk which it diverts.

"Producer-handler" has been defined as any person who produces milk, receives no milk from other dairy farmers and operates a plant from which a route is operated in the marketing area.

Distributors proposed that a producer-handler be defined as a person who marketed only his own milk on routes in the marketing area. This proposal should not be adopted. Other provisions of the proposed order classify milk purchased by a producer-handler from other handlers as Class I milk and include any milk sold by a producer-handler to another handler in "other source milk". Such latter milk will be classified in the lowest class in which the purchasing handler has use.

Definitions of "producer milk" and "other source milk" are included in order to distinguish between the milk which is and the milk which is not subject to the pricing provisions of the order.

The remaining definitions are more or less standard terms defined for the purpose of facilitating subsequent provisions of the order.

(c) *The classification of skim milk and butterfat.* It is concluded that three classes of milk should be established. Class I milk would include skim milk and butterfat disposed of in fluid form as milk, skim milk, flavored milk or flavored milk drinks and skim milk and butterfat not accounted for as Class II milk or as Class III milk.

Class II milk would include skim milk and butterfat disposed of as buttermilk, cream, any mixture of cream and milk or skim milk containing more than 6 percent butterfat, aerated products, and eggnog and all skim milk and butterfat used to produce cottage cheese.

Class III milk would include skim milk and butterfat used in manufactured dairy products, dumped or disposed of for livestock feed, in shrinkage of producer milk not in excess of 2 percent of that received from producers and in shrinkage of other source milk.

Producers and distributors proposed substantially the classification outlined above. The principal variations in the proposals from the recommended classification were that producers proposed that Class I milk include buttermilk and distributors proposed that Class III milk include cottage cheese.

It appears advisable for Class I milk to include only those items for which milk with fluid milk inspection is required. Buttermilk is usually made from inspected milk but distributors are permitted to use other than inspected milk for use in buttermilk. Therefore, Class I milk should not include buttermilk.

The present practice in the market is to price whole milk in each class. Class II milk includes milk used to produce cream and is priced somewhat lower than Class I milk and somewhat higher than Class III milk. The skim milk resulting from the cream separation process is used in buttermilk and cottage cheese. It may be assumed that customary resale values reflect this Class II pricing of cream, buttermilk and cottage cheese. While these products normally are made from milk under fluid inspection, cream is permitted to come from approved plants under inspection of health authorities of certain other cities and the sale in the Akron market of cottage cheese and buttermilk made from manufacturing milk is permitted.

Distributors objected to cottage cheese being included in the Class II classification because of competition with cottage cheese made by persons whose milk would not be subject to the pricing provisions of the order. Lower prices for milk used in this latter cheese were not shown, a quality advantage in favor of the cottage cheese made from inspected milk was shown and at least one person, not a fluid milk distributor, who manufactures cottage cheese, purchases the skim milk used in such cottage cheese from a fluid milk distributor.

The aerated products sold in the market at the time of the hearing were made from milk priced under the Cleveland order.

It is appropriate for Class III to include those products which may be sold outside the market in competition with products made from manufacturing milk. Such products sold in the marketing area are not required to be made of milk meeting the sanitary standards for milk to be used for consumption as milk. There was no evidence in opposition to the inclusion of any product herein named in Class III.

There was no showing of the average percentage of shrinkage in the fluid milk plants in the Akron area. Records of the percentage of average shrinkage each month for a period of years in plants in other markets were submitted

and indicated that a shrinkage allowance in Class III up to 2 percent of the milk received from producers is reasonable. Any shrinkage on milk received from producers above 2 percent would be classified as Class I milk. Shrinkage in some plants may exceed 2 percent but in the interest of efficiency the allowance for shrinkage should be kept to a minimum. For the purpose of determining shrinkage in each plant it is provided that in the case of milk diverted from one fluid milk plant to another, the milk so diverted should be included in the receipts of the plant actually receiving the milk and not included in the receipts at the plant from which such milk was diverted.

All shrinkage on other source milk should be included in Class III as it is further provided for the allocation of other source milk to the lowest priced class in which there is milk classified in the plant. Provision is made that shrinkage would be allocated pro rata between receipts of producer milk and of other source milk.

Milk and milk products may be used at a later time in a class other than that of the original classification and if so used they should be reclassified in accordance with their final use. The major product subject to such reclassification if frozen cream and the order should specify that this product should return to producers the price for the class of ultimate use applicable during the month when such product was originally classified.

Provision is made for milk, skim milk and cream transferred from a fluid milk plant to another plant. In the case of transfers between fluid milk plants, handlers are permitted to transfer milk in any designated class in which the receiving plant has utilization in an amount equal to or greater than that transferred, after the subtraction of other source milk, as under a market-wide pool the classification of transferred milk does not change the total money to be distributed to producers. It is also provided that when there is other source milk in either plant the transfers shall be classified so as to give producer milk the precedence in the highest priced utilizations in both plants.

In the case of transfers from a fluid milk plant to a plant not a fluid milk plant the preference for producer milk should not apply since producers should not be given first claim on the highest priced utilization for their milk both in their own market and in another market. The regular supply of the latter market would receive preferential treatment there. Transfers to such a market would be classified as Class I milk if in the form of milk or skim milk and as Class II milk if in the form of cream unless the market administrator is notified that a different class has been mutually agreed upon, the receiver has use in the agreed-upon class in an amount equal to or greater than the amount transferred or diverted, the receiver maintains books and records showing utilization of all receipts at his plant and the market administrator is permitted to verify the reported utilization.

Exception is made in the case of transfers from a fluid milk plant to the plant of a producer-handler. Since a producer-handler sells the majority of his milk as Class I milk and is not subject to the pricing and pooling provision of the order, it is provided that milk or skim milk transferred from a fluid milk plant to a producer-handler shall be Class I milk and cream so transferred shall be Class II milk.

A fluid milk plant may have receipts from producers, from other fluid milk plants and from other sources during the same month. A method of allocation becomes necessary in order to determine the classification of producer milk. The proposed method allocates other source milk to the lowest priced use in such plant. This is to prevent other source milk from displacing the milk of local producers who furnish the regular supply of milk to the market.

It was proposed that a certain amount of other source milk be allocated to Class I milk when receipts of producer milk fall below certain percentages of Class I sales. No testimony was offered either in support of or in opposition to this proposal and hence no consideration is given to it.

(d) *Class prices.* Class I and Class II milk prices should be determined by adding certain differentials to a basic formula price representing the level of manufacturing milk prices. Class III milk prices should be based on the market prices of butter and nonfat dry milk solids.

There was general agreement among all interested parties that the Class I price should be based on a basic formula price and that such price should be the highest of three alternate formulas. The formulas proposed are those generally used in Ohio fluid milk markets and consist of (i) the average price paid by 18 Michigan and Wisconsin condenseries, (ii) the so-called butter-cheese formula based on the wholesale prices of butter at Chicago and of cheese in Wisconsin, and (iii) a formula based on the wholesale price of butter at Chicago and of roller and spray process nonfat dry milk solids in the Chicago area. Use of the highest of the prices resulting from these three formulas is considered appropriate as a price base which will reflect the highest value use of milk for manufacturing purposes. The only point at issue at the hearing was the deduction from the butter price to allow for butter manufacturing costs in determining butterfat values. Producers proposed a deduction of 3 cents per pound, distributors proposed a deduction of 5.5 cents per pound. The actual cost of making butter varies from plant to plant and from month to month and is difficult to determine accurately. It is considered more satisfactory for the purpose of a basic formula price to adopt a figure of 3 cents which is used in several Ohio markets and consider variations in actual butter manufacturing costs among other factors in setting and revising the amount of the class price differentials.

Producers proposed that to determine the Class I price, differentials of $1.05 per hundredweight for May and June, $1.20 for March, April, July and August and $1.35 for other months be added to the basic formula price. Handlers proposed differentials 35 cents less for each month. There was no dispute as to the time and amount of seasonal variation desirable in the Class I price, or as to the need for this incentive to more even production, as shown by records of producer deliveries over recent years. Producers contended that historically Akron milk prices have been higher than those at Cleveland and Akron competes for milk with Pittsburgh where higher prices prevail. However, a large part of the milk going to Cleveland from the Akron milkshed moves through one of four country receiving station plants and is subject to a location differential which lowers the producer price f. o. b. plant 15 to 19 cents per hundredweight under the price for milk delivered at Cleveland. In view of the close interrelationship shown to exist between the Cleveland and Akron markets, the large degree of overlapping of production areas and similarity of production conditions, it is concluded that Class I prices should be substantially the same in the two markets. Class I price differentials of 85 cents for May and June, $1.00 for March, April, July, and August, and $1.15 for other months are considered best suited to maintain the desired correlation with Cleveland market prices, and to maintain production of an adequate supply of milk for the Akron market.

Producers proposed as a Class II butterfat price 150 percent of the average price of 92-score butter at Chicago, while handlers proposed 125 percent of such average butter price; as a Class II skim milk price producers proposed a formula based on the average price of spray process nonfat dry milk solids at Chicago while handlers proposed the same formula but using the price of roller process solids at plants in the Chicago area. Little testimony was offered in support of either proposal. While handlers proposed prices similar to the Cleveland Class II price, it was pointed out that ice cream is included in Class II under the Cleveland order but in Class III in the Akron proposal, and that comparable pricing would require a higher Class II price in Akron than that provided for Cleveland.

It has long been a market custom in Akron to price Class II milk at a fixed amount below the Class I price. This margin between the Class I and Class II prices in prewar years ranged from 34 cents to $1.00, and since class prices were reestablished in 1948 it has ranged from 15 cents to 65 cents. Testimony indicated that a very large proportion of Class II products are made from milk having Akron fluid milk inspection, although buttermilk and cottage cheese are not required to be made from inspected milk. It is concluded that the Class II price should be related to the Class I price for inspected milk rather than to the price of manufactured products made from uninspected milk. A margin of 40 cents below the Class I price is considered appropriate to allow for meeting competition with buttermilk

and cottage cheese made from uninspected milk.

Distributors proposed that in determining the Class I butterfat and skim milk prices, 70 percent of the Class I hundredweight price be considered as the value of 3½ pounds of butterfat and 30 percent as the value of 96½ pounds of skim milk. Producers proposed that the percentages of the butter-powder basic formula price represented by butterfat and skim milk each month be applied to the Class I price in determining Class I butterfat and skim milk prices. In support of these proposals, distributors pointed out the desirability of following the method of pricing used in Cleveland while producers claimed that butterfat and skim milk should be priced at the relative current values of butter and skim powder. For the month of October, 1949, butterfat represented about 81 percent and skim milk 19 percent of the values making up the butter-powder basic formula price. The proposal to fix these relative values at 70 percent and 30 percent would undervalue butterfat and overvalue skim milk in relation to current market values. This would result in inequitable pricing as all handlers will normally not have the same proportions of butterfat and skim milk in such class. It is concluded that the butterfat and skim milk values in both Class I and Class II milk should be determined by applying to the hundredweight class prices the percentage relationship of the butterfat and skim milk values in the butter-powder basic formula.

A price for Class III butterfat computed by adding 20 percent to the average price per pound of 92-score butter in the Chicago market was proposed by both producers and handlers. It is concluded that this represents a fair price for butterfat for Class III uses other than butter. For Class III butterfat used in making butter, producers proposed to deduct 5 cents per pound and handlers 6.6 cents from the Class III butterfat price. Since testimony indicates no butter is made in Akron, this price is proposed to apply to butterfat for which no outlet could be found in ice cream, sweet cream or other products. Disposal of butterfat for butter should not be encouraged if higher value uses are available. It is concluded that a deduction of 5 cents per pound from the Class III butterfat price will provide a price for butterfat used in butter which will permit such use if necessary but encourage use in higher value products.

A price for Class III skim milk based on the average market price of nonfat dry milk solids was proposed, converting to a fluid skim milk price by allowing for a yield of 8.5 pounds of powder per hundredweight of skim milk, and a making cost of 5.5 cents per pound of powder. Producers proposed basing this price on the average price of roller and spray powder at Chicago, while distributors proposed using the price of roller process powder only at plants in the Chicago area. Skim milk is made into both roller and spray process powder and also may be used in ice cream. For the latter use the value should exceed that for roller powder since normally only spray powder competes for this use. Considering the available outlets for skim milk in the area, it is concluded that the Class III skim milk price should be based on the average price of spray and roller process powder, using average price quotations at plants in the Chicago area.

Distributors proposed that skim milk and butterfat dumped or used as animal feed be priced at one-half the Class III price. Such a price would greatly lessen the incentive to find a higher value outlet for Class III milk, and considering that there are 28 manufacturing plants in the production area, it does not appear necessary to provide for such an extremely low value use.

(e) *Payment to producers.* A market-wide pool should be used in distributing returns for milk to producers, so that all producers will share in the milk utilization of all handlers and all producers will receive the same uniform price each month for milk of the same butterfat content.

Only the market-wide type of pool was proposed and considered at the hearing. This type of pool has been operated in the market with respect to participating distributors for many years. Only a few plants are equipped for manufacturing surplus milk and a market-wide pool would facilitate the transfer of seasonal surplus to these plants or to other manufacturing plants. This type of pool would provide that producers whose milk was so transferred would receive the uniform market price, and the necessity of some producers receiving only the manufacturing price during periods of surplus production would be avoided. Producers are accustomed to a uniform market price and the variety of producer prices which would result from an individual handler pool may be expected to destroy market stabilization. No need was shown for different prices to induce shifts of producers between plants.

Handlers whose receipts of producer milk are less than 50 percent of all milk received at a fluid milk plant should be required to make certain payments into the producer-settlement fund to the extent that other source milk is classified as Class I milk.

To prevent an unfair competitive advantage in the case of a handler who might be able to get other source milk at a lower cost than producer milk, or who might for some reason prefer not to use producer milk, it was proposed that a handler receiving less than 75 percent producer milk be required to pay the difference between the Class I price and the Class III price on other source milk classified as Class I milk. Objection was raised to the 75 percent requirement, handlers proposing that 50 percent be used to avoid penalizing a small handler who might involuntarily lose more than 25 percent of his producer milk. Considering recent market experience of large purchases of outside milk when an ample supply of local milk was available, it is concluded that the proposed safeguard, based on the receipt of 50 percent or more of other source milk should be provided, if such milk were not priced under another Federal milk marketing order. If such other source milk were priced under another Federal milk marketing order, such handler should be required to pay on such milk the amount by which the Class I price pursuant to the Akron order is greater than the price for the class in which such milk was classified pursuant to such other order.

Use of a base-rating plan in making payments to producers should not be adopted. It was proposed that in the months of April, May, June, and July each producer be paid the Class III price for any milk delivered in excess of a certain base amount. This base amount would be determined each month by multiplying the producer's average daily milk deliveries for the previous September, October, November, and December by the percentage resulting from dividing total market Class I and Class II sales plus 10 percent by total milk receipts from producers for the month. Distributors favored some such payment plan to discourage wide seasonal variation in production. Producer representatives made no comment on the plan. This method of payment has been used for a number of years in making payments to a small proportion of the producers in the Akron market.

Testimony did not indicate that any careful study of the plan had been made, either by distributors or producers, or that producers have had any notice, previous to the hearing notice, that such a plan might be adopted. Producers should know well in advance of the fall months if spring payments are to depend upon milk deliveries in the fall. If such a plan should be made effective in a new order without sufficient notice to producers, some producers would suffer because of their production pattern in previous months without opportunity to change such pattern by increasing fall production in relation to spring production. First payments might also be based on deliveries during a past period for which the market administrator would have no data. For these reasons it is concluded that provision for such a plan should not be included in the order.

Producers proposed payment not later than the 15th day of each month and distributors proposed payment not later than the 20th day of each month. There was testimony to indicate that although some distributors were making payments as late as the 20th day of the month, the majority of producers received payment by the 15th day of the month. A continuance of the most common practice in the market is deemed advisable, and it appears that there is ample time following the date of announcement of the uniform price to make the necessary computations and make payment by the 15th day of the month.

It has long been the practice of the market to pay producers on the basis of milk containing 3.5 percent butterfat with an adjustment or butterfat differential for each one-tenth of 1 percent that the butterfat content varies from 3.5 percent. This practice should be continued and the butterfat differential would be determined by multiplying the average price of 92-score butter in Chicago during the month by 1.2, dividing by 10 and rounding off to the nearest one-tenth of a cent. No evidence was

presented in opposition to this rate. The butterfat differential is merely a means of prorating returns to producers and handlers' costs are not affected by it.

It is also provided that a handler may make payments to a cooperative association instead of the individual producers if the cooperative association has such authority and is desirous of exercising it. Distributors were opposed to this provision although no evidence was presented that this order should limit the right of such a cooperative association to exercise such authority.

(f) *The administrative assessment.* It appears that an administrative assessment of 4 cents per hundredweight on other source milk classified as Class I milk and on all producer milk received at a fluid milk plant will be required to defray the cost of administering the order at least during its initial stages.

The market administrator is required to verify the utilization of all milk received, and therefore other source milk, as well as producer milk should bear its proportionate share of the administrative cost. Other source milk may be classified as Class I milk at certain times during the year and an assessment on other source milk so classified will apportion the expenses more equitably among handlers.

A maximum of 4 cents per hundredweight should be adopted in order to guarantee a sufficient income to properly administer the order. A witness with experience in the administration of another order gave an estimate of probable costs in the administration of this proposed order. This estimate was equal to approximately 4 cents on each hundredweight of anticipated receipts. Should experience show this rate to be higher than necessary, provision is made whereby the Secretary may reduce the rate to whatever is necessary without the necessity of an amendment to the order. Producers and distributors agreed to the necessity of an administrative assessment provision and the act provides that such assessments shall be the means of financing the costs of administration.

(g) *Marketing services.* The order should provide for furnishing marketing services, such as checking of weights and tests and giving market information, to producers who are not receiving such services from a cooperative association. Such a provision is authorized by the act, and a deduction from payments to producers of 4 cents per hundredweight to pay for such services was proposed. This amount has been found necessary by a large cooperative in the market to pay for such services, and no objection was made to a provision for such payment with respect to other producers. It is concluded that a deduction at the rate of 4 cents per hundredweight to pay for market services should be provided, and in the case of producers receiving these services from a cooperative association of which they are members, handlers should be required to make such deductions as the association may authorize and pay them to the cooperative association. Provision is made for reducing the deduction with respect to producers not receiving such services from a cooperative association if a lower rate is found desirable.

(h) *Other administrative provisions.* The other provisions of the order are of a general administrative nature. They define the powers and duties of the market administrator, prescribe the information to be reported by handlers and set forth the rules to be followed by the market administrator in making the computations required by the order. They also prescribe the length of time that records must be retained and provide a plan for the liquidation of the order in the event of its suspension or termination.

There was opposition to the provision that the market administrator furnish a cooperative association with a record of the deliveries of milk by members to a handler. This record would not divulge confidential information with respect to any handler's operation and would assist a cooperative association in allocating milk more equitably among handlers in times of shortage and thus insure each handler a more nearly adequate supply of milk. It is concluded that such a provision should be adopted.

There was a disagreement with respect to the dates for the announcement of prices, for the filing of reports and for making payments to producers. It is concluded that the dates listed herein are reasonable and properly spaced and they should be adopted.

It is also provided that a producer-handler and a handler under another Federal order shall be exempt from all the regulatory provisions of the order except that requiring the filing of reports as requested by the market administrator. The producer-handler, since he is his own marketing agent, is in a position to regulate his production to his sales and to completely control its disposition. He is in an entirely different situation from the producer whose milk is marketed through a handler and should be exempted from the pricing and pooling provisions of the order. He should be required, however, to file reports when requested by the market administrator. Such reports are necessary to verify such person's continued status as a producer-handler as well as to supplement market information.

It would be impractical to attempt to regulate the same person under two different orders with respect to the same milk. It appears reasonable that the effective regulation should be that of the market in which such person is now regulated. Such a person should also be required to file reports with the market administrator so that the amount of milk disposed of in the marketing area by such person may be known and used for statistical purposes.

The order provides also for the retention of necessary records by handlers and for the ultimate termination of obligations. It is necessary for handlers to retain records in order to prove the utilization of milk and the payments made to producers. It is necessary that these records be kept for a substantial period of time since some transactions with respect to the handling of the producers' milk are not completed and audited until several months after producers have delivered the milk to handler's plant. Detailed records of this kind soon assume tremendous physical proportions and become burdensome for this reason. It is necessary that a definite time period be provided within which handlers must maintain their records and after which they will be relieved of so doing. The order should provide that handlers shall retain records for three years after the end of the delivery period or month to which such records relate. In terms of the volume of records which would be retained and the types of transactions involved in disposing of milk, the retention of records for three years is concluded to be a reasonable requirement. If litigation is in progress, it may be necessary to require records to be retained for a longer period and provision should be made for this contingency.

The order should provide for the termination of obligations to handlers after a reasonable period of time has elapsed. Without such a provision handlers may file claims which, because the period involved might extend back over many years, could be in substantial amounts. This creates uncertainties which could endanger the stability of the market and lead to serious inequities. The order should provide that any obligation to pay a handler shall terminate two years after the month in which the milk was received if an underpayment is claimed, or within two years after payment was made if a refund is claimed, unless within such period of time the handler files a petition, pursuant to section 8c (15) (A) of the act, claiming such money. Handlers also need the protection of provisions terminating their obligations to make payments. Since handlers cannot be forewarned always as to contingent liabilities, it is extremely difficult and burdensome for them to make adequate provision therefor by setting up reserves or by taking other precautionary measures. The obligation of any handler to pay money should, except under certain extraordinary conditions, such as litigation, terminate two years after the last day of the month during which the market administrator receives the handler's report of utilization of the milk involved in such obligations, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. It is concluded that in general a period of two years is a reasonable time within which a market administrator should complete his auditing and inspection work and render any billings for money due under the order. Provisions are necessary also, as contained in the order included in this decision, to meet such contingencies as failure of the handler to submit required books and records and to deal with situations where fraud or wilful concealment of information may be involved.

It was proposed that if a handler fails to make the required reports or payments, his name may be publicly announced by the market administrator, unless otherwise directed by the Secretary. Such a provision is provided for by the act and it is concluded that its

adoption will facilitate the enforcement of the terms of the order.

General findings. (a) The proposed marketing agreement and the order and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Proposed findings and conclusions. Briefs were filed on behalf of both the producers' association and the majority of the handlers. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order. The following order is recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order:

DEFINITIONS

§ 915.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 *et seq.*).

§ 915.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other employee of the United States authorized to exercise the powers and to perform the duties of the said Secretary of Agriculture.

§ 915.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 915.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 915.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members.

§ 915.6 *Akron, Ohio, marketing area.* "Akron, Ohio, marketing area," hereinafter called the "marketing area," means all territory, including but not being limited to all municipal corporations, within the boundaries of Summit County, Ohio.

§ 915.7 *Fluid milk plant.* "Fluid milk plant" means a bottling plant, except a bottling plant of a producer-handler, which is located (a) inside the marketing area and from which a route is operated during the month; or (b) outside the marketing area and from which a daily average of 600 pounds or more of Class I milk is disposed of on routes in the marketing area during the month.

§ 915.8 *Route.* "Route" means a delivery (including a sale from a plant store) of milk, skim milk, flavored milk, or flavored milk drinks in fluid form to a wholesale or retail stop.

§ 915.9 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk which has approval of the health authorities of any community in the marketing area for consumption as fluid milk in such community and is received at a fluid milk plant. This definition shall include any such person who is regularly classified as a producer but whose milk is caused to be diverted to a plant, other than a fluid milk plant, by a handler for his account. Milk so diverted shall be deemed to have been received at a fluid milk plant by the handler who caused it to be diverted.

§ 915.10 *Handler.* "Handler" means (a) any person with respect to skim milk and butterfat received at a fluid milk plant operated by him, (b) any person with respect to skim milk and butterfat received at a plant, other than a fluid milk plant, operated by him from which a route is operated in the marketing area, and (c) any cooperative association with respect to the milk of any producer which it causes to be diverted to a plant other than a fluid milk plant for the account of such cooperative association. Milk diverted from a fluid milk plant to another fluid milk plant shall be deemed to have been received at the fluid milk plant from which it was diverted for all purposes except for the determination of shrinkage.

§ 915.11 *Producer-handler.* "Producer-handler" means any person who (a) produces milk; (b) receives no milk directly from the farms of other dairy farmers; and (c) operates a plant from which a route is operated in the marketing area.

§ 915.12 *Producer milk.* "Producer milk" means all skim milk and butterfat which is produced by a producer and received by a cooperative association or at a fluid milk plant either directly from producers or from other fluid milk plants.

§ 915.13 *Other source milk.* "Other source milk" means all skim milk and butterfat except that contained in producer milk.

MARKET ADMINISTRATOR

§ 915.20 *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 915.21 *Powers.* The market administrator shall have the power to:

(a) Administer all of the terms and provisions hereof;

(b) Make rules and regulations to effectuate the terms and provisions hereof;

(c) Receive, investigate, and report to the Secretary complaints of violations hereof; and

(d) Recommend to the Secretary amendments hereto.

§ 915.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions hereof, including, but not limited to, the following:

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 915.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 915.86, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for herein, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(h) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 10 days after the day upon which he is required to perform such acts, has not made (1) reports pursuant to §§ 915.30 to 915.32, or (2) payments pursuant to §§ 915.80 to 915.87;

(i) On or before the 25th day of each month, supply each cooperative association with a record of the amount of milk received by handlers during the preceding month, from each producer who is verified by the market administrator as being a member of such cooperative association;

(j) Publicly announce, by posting in a conspicuous place in his office, by mailing to all handlers, and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 6th day of each month, the minimum class prices for skim milk and butterfat computed pursuant to § 915.51 for the previous month; and

(2) On or before the 10th day of each month, the uniform price computed pursuant to § 915.71 and the butterfat differential computed pursuant to § 915.81, both for the previous month.

(k) Give notice on or before the 10th day of each month, with respect to the preceding month to each handler who received milk from producers of the amounts and values of skim milk and butterfat in each class and the totals of such amounts and values, the uniform price, the amount due such handler from the producer-settlement fund or the amount to be paid by such handler to the producer-settlement fund and the totals of the minimum amounts to be paid by such handler as computed pursuant to §§ 915.80, 915.85, 915.86 and 915.87.

(l) Prepare and disseminate to the public such statistics and information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 915.30 *Monthly reports of receipts and utilization.* (a) On or before the 6th day of each month each handler who received milk from producers during the preceding month shall report to the market administrator with respect to such month in the detail and on forms prescribed by the market administrator as follows:

(1) The quantities of skim milk and butterfat contained in milk received from producers;

(2) The quantities of skim milk and butterfat contained in (or used in the production of) receipts from other fluid milk plants;

(3) The quantities of skim milk and butterfat contained in (or used in the production of) receipts of other source milk;

(4) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(5) Such other information with respect to receipts and utilization as the market administrator may prescribe.

(b) On or before the 6th day of each month each handler, except a producer-handler, who operated a plant, other than a fluid milk plant, from which a route was operated in the marketing area during the preceding month shall report to the market administrator with respect to such month, the total disposition of skim milk and butterfat in fluid form as milk, skim milk, flavored milk and flavored milk drinks on routes in the marketing area.

§ 915.31 *Payroll reports.* On or before the 18th day of each month, each handler who received milk from producers during the preceding month shall submit to the market administrator such handler's producer payroll with respect to such month, which shall show: (a) The total pounds of milk and the percentage of butterfat contained therein received from each producer, (b) the amount and date of payment to each producer and cooperative association, and (c) the nature and amount of any deductions or charges involved in such payments.

§ 915.32 *Other reports.* Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may request.

§ 915.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations, including those of plants other than fluid milk plants in which any producer milk is received, and such facilities as, in the opinion of the market administrator, are necessary for the market administrator to verify or to establish the correct data with respect to:

(a) The receipts and utilization of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream and milk products on hand at the beginning and end of each month.

§ 915.34 *Retention of records.* All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 915.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month by a handler and which is required to be reported pursuant to § 915.30 shall be classified by the market administrator pursuant to the provisions of §§ 915.41 to 915.46.

§ 915.41 *Classes of utilization.* Subject to the conditions set forth in §§ 915.43 and 915.44, the classes of utilization should be as follows:

(a) Class I milk shall be all skim milk and butterfat disposed of in fluid form as milk, skim milk, flavored milk, or flavored milk drinks and all skim milk and butterfat not specifically accounted for under paragraphs (b) or (c) of this section.

(b) Class II milk shall be all skim milk and butterfat (1) disposed of as buttermilk, sweet or sour cream, or any mixture of cream and milk or skim milk containing more than 6 percent of butterfat, and (2) used to produce cottage cheese.

(c) Class III milk shall be all skim milk and butterfat (1) used to produce ice cream, imitation ice cream, and other frozen desserts and mixes for similar products; frozen cream; butter; butter oil; cheese (other than cottage cheese); condensed milk; evaporated milk; nonfat dry milk solids; dry whole milk; and condensed or dry buttermilk; (2) dumped or disposed of for livestock feed; (3) in shrinkage of producer milk not in excess of 2 percent of the skim milk and butterfat in milk received from producers: *Provided*, That for the purpose of computing shrinkage milk of a producer transferred from a fluid milk plant by diversion directly from such producer's farm to another fluid milk plant shall be excluded from the receipts at the fluid milk plant making such diversion and shall be included in the receipts at the fluid milk plant to which such milk is diverted; and (4) in shrinkage of other source milk.

§ 915.42 *Shrinkage.* The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat in producer milk and in other source milk.

§ 915.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat (except that transferred to a producer-handler) shall be reclassified if verification by the market administrator discloses that the original classification was incorrect: *Provided*, That the prices applicable to such reclassified skim milk or butterfat in frozen cream shall be the

class prices applicable when such skim milk or butterfat was originally classified.

§ 915.44 *Transfers.* Skim milk or butterfat transferred from a fluid milk plant shall be classified as Class I milk if transferred in the form of milk or skim milk and as Class II milk if transferred in the form of cream;

(a) To another fluid milk plant unless utilization in another class is mutually indicated in writing to the market administrator by both handlers on or before the 6th day after the end of the month within which such transfer occurred: *Provided,* That the skim milk or butterfat so assigned to any class shall be limited to the amount thereof remaining in such class in the receiving fluid milk plant after the subtraction of other source milk pursuant to § 915.46, and any additional amounts of skim milk or butterfat so transferred shall be assigned in series to the next higher priced classes in which there is skim milk or butterfat remaining in the receiving fluid milk plant: *And provided further,* That if either or both fluid milk plants have received other source milk, the skim milk or butterfat so transferred shall be classified at both fluid milk plants so as to allocate the highest possible utilization to producer milk;

(b) To a plant, other than a fluid milk plant or a plant of a producer-handler, unless (i) utilization in another class is mutually indicated in writing to the market administrator by both the handler making such transfer and the receiver on or before the 6th day after the end of the month within which such transfer occurred, and (ii) the receiver maintains books and records which show the utilization of all skim milk and butterfat received at his plant and which are made available if requested by the market administrator for the purpose of verifying such reported utilization: *Provided,* That the skim milk or butterfat so assigned to any class shall be limited to the amount classified in such class in the receiving plant and any additional amounts of skim milk or butterfat so transferred shall be assigned in series to the next higher priced classes in which there is utilization in the receiving plant; and

(c) To a plant of a producer-handler.

§ 915.45 *Computation of skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and other obvious errors the report of receipts and utilization submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk, Class II milk, and Class III milk for such handler.

§ 915.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 915.45 the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III milk the pounds of skim milk determined pursuant to § 915.41 (c) (3);

(2) Subtract from the pounds of skim milk remaining in each class in series beginning with the lowest priced class in which there is skim milk remaining, the pounds of skim milk in other source milk;

(3) Subtract from the pounds of skim milk remaining in each class the skim milk received from other fluid milk plants according to its classification as determined pursuant to § 915.44;

(4) Add to the pounds of skim milk remaining in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph; and

(5) If the pounds of skim milk remaining in all classes exceed the pounds of skim milk in the milk received from producers, subtract such excess skim milk from the pounds remaining in each class in series beginning with the lowest priced class in which there is skim milk remaining.

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

MINIMUM PRICES

§ 915.50 *Basic formula price.* The basic formula price per hundredweight of milk shall be the highest of the prices pursuant to paragraphs (a), (b) and (c) of this section.

(a) The average of the basic or field prices per hundredweight ascertained to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Present Operator and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight resulting from the following computations:

(1) Multiply by 6 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month;

(2) Add an amount equal to 2.4 times the simple average as published by the Department of Agriculture of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the month;

(3) Divide the resulting sum by 7;

(4) Add 30 percent thereof; and

(5) Multiply the resulting sum by 3.5.

(c) The price per hundredweight resulting from the following computations:

(1) From the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month, subtract 3 cents, add 20 percent thereof, and multiply by 3.5;

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, subtract 5.5 cents, multiply by 8.5, and multiply by 0.965; and

(3) Add together the plus amounts pursuant to subparagraphs (1) and (2) of this paragraph.

§ 915.51 *Class prices*—(a) *Class I milk prices.* The minimum respective prices per hundredweight to be paid by each handler for butterfat and skim milk, in milk received from producers during the month, which is classified as Class I milk, shall be the amounts determined pursuant to subparagraphs (4) and (6) of this paragraph by the market administrator as follows:

(1) To the basic formula price add the following amounts for the months indicated:

May and June	$0.85
March, April, July and August	1.00
All other months	1.15

(2) Divide the amount computed pursuant to § 915.50 (c) (1) by the amount computed pursuant to § 915.50 (c) (3);

(3) Multiply the price determined pursuant to subparagraph (1) of this paragraph by the percent determined pursuant to subparagraph (2) of this paragraph;

(4) Divide the amount determined pursuant to subparagraph (3) of this paragraph by 0.035;

(5) Subtract the amount determined pursuant to subparagraph (3) of this paragraph from the amount determined pursuant to subparagraph (1) of this paragraph, and

(6) Divide the amount determined pursuant to subparagraph (5) of this paragraph by 0.965.

(b) *Class II milk prices.* The minimum respective prices per hundredweight to be paid by each handler for butterfat and skim milk, in milk received from producers during the month, which is classified as Class II milk, shall be the amounts determined pursuant to subparagraphs (3) and (5) of this paragraph by the market administrator as follows:

(1) To the basic formula price add the following amounts for the months indicated:

May and June	$0.45
March, April, July and August	.60
All other months	.75

(2) Multiply the price determined pursuant to subparagraph (1) of this paragraph by the percent determined pursuant to paragraph (a) (2) of this section;

(3) Divide the amount determined pursuant to subparagraph (2) of this paragraph by 0.035;

(4) Subtract the amount determined pursuant to subparagraph (2) of this paragraph from the amount determined pursuant to subparagraph (1) of this paragraph, and

(5) Divide the amount determined pursuant to subparagraph (4) of this paragraph by 0.965.

(c) *Class III milk prices.* The respective minimum prices per hundredweight to be paid by each handler for butterfat and skim milk in milk received from producers during the month, which is classified as Class III milk shall be the amounts determined pursuant to subparagraphs (1) and (2) of this paragraph by the market administrator as follows:

(1) Multiply the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department of Agriculture during the month by 120: *Provided*, That the price per hundreweight of butterfat used to produce butter or classified as shrinkage pursuant to § 915.42 (c) (3) shall be such price less $5.00, and

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department of Agriculture, subtract 5.5 cents and multiply by 8.5.

APPLICATION OF PROVISIONS

§ 915.60 *Producer-handlers.* Sections 915.40 to 915.46, 915.50 to 915.51, 915.70 to 915.71, 915.80 to 915.87 shall not apply to a producer-handler.

§ 915.61 *Handlers subject to other orders.* The provisions of this order, except §§ 915.10 (b) and 915.30 (b), shall not apply in the case of any handler who operates a plant from which a daily average of 600 pounds or more of Class I milk is disposed of on routes in the marketing area during the month and who is subject to the provisions of another marketing agreement or order issued under the act with respect to payment of minimum prices to producers (as defined under such other marketing agreement or order) for milk received directly from farms at such plant.

DETERMINATION OF UNIFORM PRICE

§ 915.70 *Computation of value of milk.* The value of the milk received during each month by each handler from producers shall be a sum of money computed by the market administrator by multiplying the pounds of skim milk and butterfat in each class by the applicable class prices and adding together the resulting amounts: *Provided*, That if the handler had excess to either skim milk or butterfat during such month there shall be added to the above values an amount computed by multiplying the pounds of such excess skim milk or butterfat subtracted from each class pursuant to § 915.46 by the applicable class prices: *And provided further*, That if the handler has received at his fluid milk plant during the month skim milk or butterfat in other source milk equal to 50 percent or more of the total receipts of skim milk or butterfat at such fluid milk plant during the month there shall be added to the above values an amount computed by multiplying the pounds of skim milk and butterfat, respectively, in other source milk which are classified as Class I milk by: (a) The difference between the prices for skim milk and butterfat, respectively, in Class I milk and Class III milk, if such skim milk and butterfat were not priced under another Federal milk marketing order; and (b) the difference, if such skim milk and butterfat were priced under another Federal milk marketing order, between the price pursuant to this order for skim milk and butterfat, respectively, in Class I milk and the price pursuant to such other Federal order for the class in which such skim milk and butterfat was classified pursuant to such other Federal order.

Other source milk classified as Class I milk shall be deemed to be that received in the form of milk, skim milk, flavored milk or flavored milk drinks. In case other source milk was received in such form from more than one source, that which is classified as Class I milk shall be deemed to have been received from each source in the same proportion that the total other source milk in such form was received from each such source.

§ 915.71 *Computation of the uniform price.* For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 915.70;

(b) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 915.81 and multiplying the resulting figure by the hundredweight of such milk;

(d) Divide by the hundredweight of milk included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents. The resulting figure shall be the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers.

§ 915.80 *Time and method of payment.* On or before the 15th day of each month, each handler shall make payment to each producer for milk received from him during the preceding month of an amount not less than that computed by multiplying the pounds of such milk by the uniform price computed pursuant to § 915.71, adjusted by the butterfat differential computed pursuant to § 915.81: *Provided*, That with respect to milk received during such month from producers who have authorized a cooperative association to collect payment for them, the handler may, upon written request by such cooperative association, make payment to such cooperative association, on or before the 13th day after the end of the month during which such milk was received, of an amount not less than the sum of the individual payments otherwise payable to such producers in accordance with this section.

§ 915.81 *Producer butterfat differential.* In making payments pursuant to § 915.80 the uniform price shall be adjusted for each one-tenth of 1 percent that the milk of each producer varies from 3.5 percent, by adding for each one-tenth above 3.5 percent and subtracting for each one-tenth below 3.5 percent, an amount computed by multiplying by 1.2 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per ponnd at Chicago as reported by the Department of Agriculture during the month, dividing the resulting sum by 10, and rounding to the nearest one-tenth of a cent.

§ 915.82 *Producer - settlement fund.* The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund," into which he shall deposit payments made by handlers pursuant to §§ 915.83 and 915.85 and out of which he shall make payments to handlers pursuant to §§ 915.84 and 915.85.

§ 915.83 *Payments to the producer-settlement fund.* On or before the 12th day after the end of the month during which the milk was received, each handler shall pay to the market administrator the amount by which the value of the milk received by such handler from producers during such month as determined pursuant to § 915.70 is greater than the amount required to be paid producers by such handler pursuant to § 915.80.

§ 915.84 *Payment out of the producer-settlement fund.* On or before the 14th day after the end of the month during which the milk was received, the market administrator shall pay to each handler the amount by which the value of the milk received by such handler from producers during such month as determined pursuant to § 915.70 is less than the amount required to be paid producers by such handler pursuant to § 915.80, less any unpaid obligations of such handler to the market adminis-

trator pursuant to §§ 915.83, 915.85, 915.86 and 915.87: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available. No handler who has not received the balance of such payment from the market administrator shall be considered in violation of § 915.80 if he reduces his payments uniformly per hundredweight to all producers by an amount not in excess of the per hundredweight reduction in payment received from the market administrator. Such handler shall make such balance of payment to those producers to whom it is due on or before the date for making such payments pursuant to this section, next following that on which such balance of payment is received from the market administrator.

§ 915.85 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payment set forth in the provision under which such error occurred, following the 5th day after such notice.

§ 915.86 *Marketing services*—(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 915.80 with respect to all milk received from each producer (except milk of such handler's own production) at a plant not operated by a cooperative association of which such producer is a member, shall deduct 4 cents per hundredweight of milk, or such amount not to exceed 4 cents as the Secretary may from time to time prescribe, and on or before the 15th day after the end of the month during which such milk was received shall pay such deductions to the market administrator. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk of such producers and to provide such producers with market information, such services to be performed by the market administrator, or by an agent engaged by and responsible to him.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers whose milk is received at a plant not operated by a cooperative association of which such producers are members, and for whom a cooperative association is actually performing the services described in paragraph (a) of this section, as determined by the market administrator, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from payments to such producers pursuant to § 915.80 as may be authorized by the membership agreement or by-laws of such cooperative association, and on or before the 15th day after the end of the month during which such milk was received shall pay such deductions to the cooperative association, of which such producers are members, rendering such services: *Provided*, That such deductions shall not be made from payments made to a cooperative association pursuant to the proviso in § 915.80.

§ 915.87 As his pro rata share of the expense of administration hereof each handler, who received milk from producers, shall pay to the market administrator on or before the 12th day after the end of the month during which such milk was received 4 cents per hundredweight, or such amount not to exceed 4 cents as the Secretary may from time to time prescribe, with respect to all receipts of (a) other source milk which is classified as Class I milk, and (b) milk from producers (including such handler's own production).

§ 915.88 *Termination of obligation.* (a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producers or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or wilful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 915.90 *Effective time.* The provisions hereof, or of any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 915.91.

§ 915.91 *Suspension or termination.* Whenever the Secretary finds this order or any provision thereof obstructs or does not tend to effectuate the declared policy of the act, he shall terminate or suspend the operation of this order or any such provision thereof.

§ 915.92 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this order there are any obligations thereunder the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 915.93 *Liquidation.* Upon the suspension of the provisions hereof, except this section, the market administrator, or such other liquidation agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated all assets, books, and records of the market administrator shall be transferred promptly to such liquidation agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 915.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or represenative in connection with any of the provisions hereof.

§ 915.101 *Separability of provisions.* If any provision hereof, or its application to any person or circumstances, is held invalid the application of such provision, and of the remaining provisions

hereof, to other persons or circumstances shall not be affected thereby.

Filed at Washington, D. C., this 19th day of June 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 50-5396; Filed, June 21, 1950; 8:51 a. m.]

[7 CFR, Part 939]

[Docket No. AO-99-A1]

HANDLING OF BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA.

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO THE MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders, as amended (7 CFR, Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to Marketing Agreement No. 89 (hereinafter referred to as the "marketing agreement") and Order No. 39 (7 CFR, Part 939; hereinafter referred to as the "order"), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California, to be made effective pursuant to the provisions of Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 7 U. S. C. 601 et seq.), hereinafter referred to as the "act." Interested parties may file exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C., not later than the close of business on the 10th day after publication hereof in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing, on the record of which the proposed amendments to the marketing agreement and order are formulated, was initiated by the Production and Marketing Administration as a result of proposed amendments received from the Control Committee, established pursuant to the marketing agreement and order as the agency to administer the terms and provisions thereof. In accordance with the applicable provisions of the aforesaid rules of practice and procedure, notice that a public hearing would be held at Portland, Oregon, beginning on April 10, 1950, at Yakima, Washington, beginning on April 13, 1950, and at Sacramento, California, beginning on April 17, 1950, to consider the proposals was published in the FEDERAL REGISTER (15 F. R. 1892).

Material issues. The material issues presented on the record of the hearing were concerned with whether the marketing agreement and order should be amended:

(1) By revising the definition of the term "act" to incorporate therein the amendments to date; and providing a definition for a new term "export market";

(2) To authorize the selection of an additional alternate for each member of the Control Committee and prescribe the manner in which such additional alternate shall be selected and serve on said committee;

(3) To state more explicitly the authority of the Control Committee to engage in such research and service activities relative to the handling of pears as may be required for the committee's proper performance of its duties and functions;

(4) By revising the provisions relating to the regulation of shipments by grades and sizes so as to provide more flexibility in establishing regulations;

(5) To provide for the regulation of shipments of pears during specified periods by authorizing the establishment, and maintenance in effect, of minimum standards of quality;

(6) To authorize the modification, suspension, or termination of regulations;

(7) To establish a new procedure with respect to the committee's voting on regulatory measures to be recommended to the Secretary;

(8) To require inspection and certification of shipments of pears by such inspection service as the Control Committee, with the approval of the Secretary, may designate; and

(9) To provide that certain shipments of pears should not be subject to the inspection and other requirements of the regulatory program.

Findings and conclusions. The following findings and conclusions on the material issues are based upon the evidence introduced at the hearing and the record thereof:

(1) The marketing agreement and order should be amended by redefining the term "act" and by adding a new term—"export market"—and the definition therefor.

This marketing agreement and order program was made effective on August 26, 1939. Since that time, the act has been amended several times. Among such amendments is Public Law 305, 80th Cong., approved August 1, 1947, which authorizes the establishment, and maintenance in effect, of such minimum standards of quality and maturity and such grading and inspection requirements as will effectuate orderly marketing in the public interest, even though the seasonal average price of the commodity involved is in excess of the parity price. Provision is afforded for the exercise of such authorization in connection with the operation of the marketing agreement and order as hereby proposed to be amended. Further, the Agricultural Act of 1948 and the Agricultural Act of 1949 are determinative of the extent of regulation permitted under this program. Therefore, the term "act" should be defined to show clearly that such term, when used in the marketing agreement and order, means Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 and all amendments thereto to date.

The term "export market" should be defined, as hereinafter set forth in the amended marketing agreement and order, because it is used in connection with the provisions of the program as hereby proposed to be amended; and its definition will avoid the necessity of restating the meaning thereof whenever it is used. The provisions of the marketing agreement and order, as hereby proposed to be amended, authorize separate regulations with respect to interstate shipments of pears from the States comprising the area (i. e., the States of Oregon, Washington, and California) to destinations within the 48 States and the District of Columbia, and shipments of pears to destinations elsewhere. It is in connection with the latter category of shipments that the term "export market" is to be used.

(2) The marketing agreement and order should be amended to provide two alternates for each member of the Control Committee. Experience in the operation of this program, which presently provides for one alternate for each member of the committee, has shown that it is not always possible for each district to be fully represented at each committee meeting. This has resulted, for example, from the fact that at the time recommendation for regulations to be effective during the ensuing season are being considered growers and handlers are engaged in making preparations for the handling of their pear crops and the harvesting and marketing of other crops. Consequently, there have been occasions when neither the member nor his alternate was able to leave his business for the length of time involved in attending a committee meeting. Also, there have been occasions when both the member and his alternate were ill and thus could not attend a meeting of the committee. The importance of complete representation at meetings of the committee to consider recommendations for regulation pursuant to the marketing agreement and order was emphasized at the hearing because the members on the committee representing the various districts may have up-to-the-minute information on the condition of pears in their respective districts, which would not otherwise be available to the committee and which could have a significant bearing on the nature of the regulation recommended to the Secretary. It is necessary, therefore, that the possibility of incomplete representation at committee meetings be minimized insofar as practical. This should be accomplished by providing two alternates, designated as the first alternate and second alternate, respectively, for each committee member, and authorizing the second alternate to serve in the place and stead of the member for whom he is an alternate whenever both the mem-

ber and first alternate are unable to attend a committee meeting. As the second alternate may serve in the place and stead of a member, he should have the same qualifications as the member for whom he is an alternate, and be subject to the same requirements of nomination and selection, and tenure on the committee.

(3) The marketing agreement and order should be amended to authorize the Control Committee to engage in such research and service activities in connection with the handling of pears as may be approved by the Secretary. This authorization is for the purpose of enabling the committee to engage in such activities as may be necessary to develop information required by the committee in the performance of its duties and functions under the program.

The marketing agreement and order presently prescribe, among the duties of the committee that it investigate and assemble data on the growing, harvesting, shipping, and marketing conditions relative to pears. In connection with such duties, there was the implied authorization for the committee to engage in activities necessary for the accomplishment of these duties and the performance of the committee's functions. This would include authority to investigate new procedures or methods of estimating the production of pears and the grades and sizes thereof, and similar activities, which do not appear to be within the literal meaning of the terms "investigate and assemble data." The provision, in the amended marketing agreement and order, that the committee may engage in research and service activities in connection with the handling of pears will make it clear that the committee's activities are not restricted merely to the collection of data. The additional provision, of course, should not be construed to mean that the committee may undertake activities which are neither directly related to the handling of pears, nor necessary for the committee to perform its duties and functions under the program.

(4) The provisions of section 4 of the marketing agreement and § 939.4 of the order should be revised so as to provide a greater degree of flexibility in the establishment and modification of grade and size regulations authorized under this program. The presently effective regulatory provisions of the marketing agreement and order specify, for each variety of pears, minimum grade and size limitations with respect to shipments thereof. Because of the varying supply and demand conditions for pears, it was necessary during most seasons to modify, by regulations issued in the manner provided in the program, the aforesaid grade and size limitations. However, the Secretary's authority to effect any such modification was confined to those instances when a recommendation therefor was submitted by the Control Committee. Since the Committee may presently recommend the modification of the prescribed grade and size regulation applicable to pears produced in any year only in the event such action is concluded prior to July 15 of that year, it is apparent that the provision for modification of grade and size regulations cannot be utilized at any time subsequent to July 15 even though warranted by the particular marketing or other conditions then prevailing. It is manifest, therefore, that the structure of the provisions relating to modification of such grade and size limitations has, at times, been a hindrance to the efficient functioning of the regulatory program.

The objectives of this regulatory program may be accomplished effectively by providing a method whereby the grades and sizes of shipments of pears may be regulated. Accordingly, provision should be made in the amended marketing agreement and order for the Control Committee to recommend to the Secretary, and for the Secretary to establish, regulations limiting shipments of pears to the grades and sizes of each variety of pears deemed advisable to be shipped under then existing conditions in order to effectuate the declared policy of the act. Such recommendations should be predicated upon investigation by the committee of the supply and demand conditions relative to each grade, size, and quality of pears of each variety, including, but not being limited to, the following: (i) Estimated production of each variety of pears and of each grade, size, and quality thereof; (ii) prospective supplies and prices of Bartlett pears and other fruits, both in fresh and processed form, which are competitive to the marketing of pears, (iii) prospective exports of pears and imports of pears from other producing areas; (iv) probable harvesting period for each variety of pears; (v) the trend and level of consumer income; and (vi) general economic conditions. The requirement that the committee investigate such factors should enable the development of economically sound and practical recommendations for regulation of shipments of pears. Also, the committee should be in a position to provide the Secretary with adequate factual information in regard to the marketing problems.

Different regulations should be authorized for the different varieties of pears. Such different regulations are required because of the variations in the characteristics of these pears which make a grade and size limitation that is appropriate for one variety impractical in the case of another variety. Any such grade and size regulation for a particular variety of pears should generally be applicable to all pears of such variety irrespective of the district in which produced; but authority should nevertheless be provided for the prescription of different grades and sizes for pears produced in a particular district or districts. Such authority is necessary since a particular district or districts may be affected by adverse growing conditions causing a large percentage of the pears produced in such districts to be of abnormal size or of poor quality. Under such circumstances, in order to provide fair and equitable regulation of all pears grown in the area, it would be appropriate for the grade and size regulation to specify such different limitations applicable to pears produced in the districts so affected as may be necessary to give due recognition to such conditions.

The currently effective provisions of the marketing agreement and order regulate the shipment of the various varieties of pears differently with respect to the grades and sizes thereof which may be sold in domestic markets and in export markets. Export markets provide a substantial outlet for pears, and certain export markets will pay premium prices for some of the grades and sizes which usually are not in demand, and sell at a discount, in other markets. Therefore, differentiation in regulation between domestic and export shipments should be continued; and provision also should be made to authorize the establishment of regulations which provide different grade and size limitations applicable to pears shipped to the various export markets so that the diverse demands of these markets may be reflected in such regulations.

The committee should be required to submit, not later than August 1 of each year, its recommendations to the Secretary concerning the proposed regulations that the committee deems advisable to be effective during the ensuing marketing season for pears. The harvesting of pears normally begins each year during the early part of the month of August. As the pears are harvested, they are brought into the packinghouse where they usually are sorted and packed into boxes. Immediately thereafter, the packed boxes of pears are placed in storage within the area. These pears may be shipped to market within a few days after being stored or marketed during a period extending over the following six or seven months. It is evident, therefore, that recommendation for regulations should be made not later than August 1 of each year, and prior to the packing of pears, so as to apprise growers and handlers of the grades and sizes of pears which may be restricted from shipment during the marketing season. With such advance knowledge, growers and handlers should be able to plan their operations so as to avoid the packing of pears which may be proscribed from shipment.

There was considerable discussion at the hearing concerning the vesting in the Secretary of unlimited authority to issue regulations under this marketing agreement and order program. It was contended that the Secretary should not be authorized to issue any regulation unless the Control Committee had first recommended regulation to the Secretary. Also, it was asserted that if a regulation is issued, it should not be more restrictive than the one recommended. Experience in the operation of other marketing agreement and order programs has shown that the administrative agencies established thereunder render an invaluable service in connection with the determination of appropriate regulatory activities and great reliance may be placed on the recommendations of such committees. The hearing record, however, does not contain any cogent reasons as to the necessity of always restricting the issuance of regulations to instances when a prior recommendation therefor has been submitted by the Control Committee or requiring that such

regulations never be more restrictive than recommended. Therefore, in the absence of substantial evidence to justify the proposed limitations on the plenary authority of the Secretary to issue such regulations as will tend to effectuate the declared policy of the act, the marketing agreement and order should not be amended so as to preclude the establishment of appropriate regulations unless they are recommended by the Control Committee.

It was proposed, in the notice of hearing, that the marketing agreement and order be amended to provide that whenever "a regulation shall establish a combination of grades as a minimum standard of quality or as a grading requirement, it shall be permissible to ship each component grade of that combination in separate containers and in separate shipments." The evidence introduced at the hearing shows that handlers in Oregon and Washington generally pack pears into containers on a single grade basis, i. e., each container is packed with pears of the same grade in contrast to containers of pears grading, for example, U. S. Combination, which requires at least 50 percent of the pears in the respective containers to grade not less than U. S. No. 1 with the remainder grading at least U. S. No. 2.[1] For such reason, it was asserted that if a grade regulation limits the shipment of pears to those meeting the requirements of a grade such as the aforesaid U. S. Combination grade, handlers should be permitted to ship in separate containers such pears as are of the component grades of such combination grade. The record also shows that the marketing agreement and order should be amended to provide sufficient flexibility in the establishment of grade and quality regulations so as to limit the shipment of the total quantity of any variety or varieties of pears to the grades or qualities thereof deemed advisable to be shipped to the different market outlets in order to effectuate the declared policy of the act. While such regulations may be stated in terms of the grades established in the Federal or State standards for pears, the specification of any grade or quality factors should be permitted to be employed in the formulation of the grade and quality requirements that are made effective. The verbatim specification in the marketing agreement and order of the quoted language in the aforesaid proposal would not permit such flexibility at all times and, consequently, should not be adopted. However, any regulation under the amended program may, in appropriate circumstances, be stated so as to restrict the shipment of a particular variety of pears to such quantities of each grade and quality thereof as will effect the purposes of such proposal.

(5) There should be provided in the marketing agreement and order authorization to permit continued operation of the program during periods when the seasonal average price of pears exceeds the parity price prescribed in section 2 (1) of the act. It is desirable and necessary for the efficient functioning of the program that the committee maintain its administrative organization, regardless of the level of prices of pears during a particular season, so that trained and experienced personnel will be available when required and for assembling of requisite data, concerning shipments of pears, upon which will be based the new "voting procedure" hereinafter referred to.

Also, there are some pears produced each year which are of such low quality that they should not be shipped under any circumstances since they will not give consumer satisfaction. Pears which are wormy, seriously misshapen, excessively small, or damaged by hard end, black end, or other causes will not give consumer satisfaction because of the large amount of waste involved. The marketing of such pears, or of pears which are immature and therefore will not ripen to the normal edible condition, tends to lessen the demand for pears and thus interfere with the orderly marketing thereof. Further, the prohibition from shipment of such pears would be in the interest of both the consumer and the pear industry.

Accordingly, the marketing agreement and order should be amended to authorize the committee to recommend, and the Secretary to establish and maintain in effect, such minimum standards of quality, during any period when the seasonal average price of pears may be in excess of the aforesaid parity price, as will effectuate orderly marketing in the public interest. In order to insure compliance with such minimum standards, the inspection and certification requirements should be applicable to shipments of such pears. Also, the cost of the amended program should be seasonally defrayed by means of proportionate assessments against handlers.

(6) Provision should be made for the modification of any or all regulations issued by the Secretary pursuant to the amended marketing agreement and order, if such modification will tend to effectuate the declared policy of the act. Provision should also be made for the suspension or termination by the Secretary of any such regulations which obstruct or do not tend to effectuate the declared policy of the act. The Control Committee should be authorized to recommend such action to the Secretary whenever it deems it advisable because of changed conditions; but the exercise of the Secretary's authority to modify, suspend or terminate a regulation should not be limited solely to the type of action recommended by the committee or a prior recommendation by the committee. There may be circumstances when the exercise of the authority by the Secretary may be required pursuant to the provisions of the act or deemed necessary on the basis of available information. For the reasons stated heretofore in connection with the establishment of August 1 as the latest date of each fiscal year for the committee's recommendation for regulation during such period, any modification of a regulation should be limited to a relaxing of limitations then in effect.

The structure of the provision for modification, suspension, or termination of regulations should authorize action with respect to shipments of pears produced in any or all districts, and, to the extent indicated, produced in any region thereof. Generally, the harvesting of pears will not be completed until several weeks following the establishment of regulations for a season. Until harvesting operations are completed, therefore, the pears will be subject to possible damage as the result of weather hazards, such as hail. While hardship to the grower resulting from any such damage may be relieved, as provided in the marketing agreement and order, by the use of exemption certificates, in instances when an entire district or major portion thereof suffers such damage, the provision should be utilized to modify, suspend, or terminate regulations if it will provide a more efficient means of affording appropriate relief to the affected growers.

The Control Committee should be required to give prompt notice to growers and handlers of each recommendation submitted to the Secretary in regard to regulation of shipments by grades, sizes, or minimum standards of quality, and each recommendation that a regulation then in effect should be modified, suspended or terminated. The Secretary should notify the committee promptly of the issuance of all regulations, as well as the modification, suspension, or termination thereof; and the committee, in turn, should promptly notify growers and handlers of such action by the Secretary. Such notice should be given by mail, newspapers, radio, or such other means as may be necessary and appropriate to enable such persons to be informed of the nature and scope of the regulations governing the shipment of pears.

(7) The marketing agreement and order should be amended to provide a new procedure with respect to action by the Control Committee relative to recommendations for regulation, and the modification, suspension, or termination thereof. Under the current provisions of the marketing agreement and order, each district is represented on the Control Committee by two members; and each committee recommendation pertaining to grade and size regulatory matters requires an affirmative vote of not less than 10 of its 12 members. The equal votes provided each district through its representation on the committee is in contrast to the wide variation, as between districts, in the relative quantities of the respective varieties of pears produced in such districts. For example, approximately 70 percent of the production of pears in the two districts in California is of the Comice and Winter Nelis varieties; and nearly 90 percent of the pears produced in the Medford district is of the Anjou and Bosc varieties. It is desirable, therefore, in order to assure that appropriate weight will be given to the views of the committee members from the respective districts, to provide a means whereby each district is given a vote on each recommendation for regulation (includ-

[1] The said U. S. grades are contained in the United States Standards for Fall and Winter Pears (14 F. R. 7415; 7 CFR 51.332).

ing modification, suspension, and termination) of a particular variety of pears, which is commensurate with the quantity of such pears shipped from the district in which produced. Accordingly, the amended marketing agreement and order should provide that, with respect to each variety of pears, each district be allotted additional votes based upon the average quantity, rounded to the nearest 25,000 boxes (i. e., the quantity of pears that will pack 25,000 standard western pear boxes), of such pears shipped from such district to points outside the State in which the district is located during the immediately preceding three fiscal periods. In order to facilitate the balloting of such additional so-called "district votes," the aggregate of such votes for a particular district should be computed on the basis of one vote for each such 25,000 boxes of pears so shipped from that district. All such votes for a particular district should be divided equally among the committee members representing such district and should be in addition to the individual votes that are presently authorized for the respective members by the marketing agreement and order. The use of such three fiscal periods in the determination of the average quantity of such pears shipped from the respective districts should provide appropriate adjustments for seasonal and other variations, as between districts, in the production and shipment of the respective varieties.

It was proposed at the hearing that the additional district vote be computed for each district on the basis of the average quantity of pears "packed" in such district for fresh consumption. There are substantial quantities of certain varieties of pears that are sold in intrastate markets for processing or fresh consumption within the State of production or shipped in so-called gift packages. Such pears are not subject to the regulations established under this marketing agreement and order; and such pears should not, therefore, be included in determining the additional district votes.

Each decision of the Control Committee with respect to recommendation for regulation, or the modification, suspension, or termination thereof, should require a concurring vote of not less than 80 percent of the total number of votes, including the district votes, of all committee members. In this connection, it was asserted at the hearing that a concurring vote of 70 percent of the aforesaid total number of votes should be sufficient to approve any recommendation which proposes the restriction from shipment of only such pears as do not grade at least U. S. No. 2 (as such grade is defined in the United States Standards for Fall and Winter Pears; 14 F. R. 7415; 7 CFR 51.332) or are of a size smaller than the 195 size. Also, any modification of an existing regulation should require a greater percentage of such total number of votes than prescribed for a recommendation for regulation. The decisions of the committee relative to recommendations for regulation, or the modification of a regulation, may have an important bearing on the well being of the entire industry. The requirement that each such action by the committee shall be favored by not less than 80 percent of the aforesaid total number of votes should assure that such decisions are effected only after mature consideration. On the other hand, it does not appear necessary or reasonable to require that committee actions must be approved by a greater percental vote.

(8) The marketing agreement and order should be amended to authorize the Control Committee, with the approval of the Secretary, to establish procedures whereby shipments of pears to designated storage warehouses within the area could be made without being subject to the inspection and other requirements of this regulatory program. Certain rail shipments of pears to storage warehouses within the State of production cross State boundaries while en route to such storage. Also, there are storage warehouses in California near the Oregon-California border to which handlers in Oregon ship pears for storage. While shipments of pears to such storages could be inspected prior to shipment, it is more economical to have the pears inspected immediately prior to removal from storage when there is usually procured an inspection as to the condition of the fruit. With respect to pears shipped to such storage warehouses, therefore, it is not desirable to require compliance with the provisions of the marketing agreement and order prior to the time they are reshipped from storage. Such exemption, however, must necessarily be confined to those instances when adequate safeguards are established to assure that the pears which are shipped to such storage warehouses are not subsequently handled except in accordance with the requirements of the regulatory program. The Control Committee is well qualified, because of the knowledge and experience of its members, to designate the storage warehouses in the area to which pears may be so shipped and to recommend the necessary safeguards. Of course, any such safeguard, which may be established by means of rules and regulations of the committee, should be approved by the Secretary before becoming effective.

(9) Provision should be made in the amended marketing agreement and order to permit inspection and certification of shipments of pears by such inspection service as the Control Committee, with the approval of the Secretary, may designate. The Federal-State Inspection Service is presently specified in the marketing agreement and order as the sole agency to perform such functions. The proposed action is merely precautionary in the event the Federal-State Inspection Service becomes unavailable or is unable to perform the services required.

(10) The format of the order should be revised by renumbering the sections, paragraphs, subparagraphs, and subdivisions thereof in accordance with the revised FEDERAL REGISTER regulations; and similar changes should be made in the marketing agreement. No substantive change in the provisions of the marketing agreement and order shall be made in such revision; however, certain changes, such as the deletion of the names of the initial members of the Control Committee, whose terms of office expired in 1940, and other obsolete language and references, should be made at this time.

Rulings on proposed findings and conclusions. Interested parties were allowed until April 28, 1950, to file briefs with respect to proposed findings and conclusions which should be drawn from the evidence introduced at the hearing. Such a brief was filed by H. V. Beckman, Manager, Pear Growers League, San Jose, California. Each point covered in such brief was considered carefully along with the evidence contained in the record of the hearing in making the findings and reaching the conclusions herein set forth. To the extent that the findings and conclusions herein are at variance with the suggested findings and conclusions set forth in said brief, the request to make such findings or reach such conclusions is denied on the basis of the facts found and stated in connection with this decision.

General findings. (1) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended, regulate the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(3) The marketing agreement as hereby porposed to be amended, and the order as hereby proposed to be amended, are limited in their application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such regional production area would not effectively carry out the declared policy of the act; and

(4) The marketing agreement as hereby proposed to be amended, and the order as hereby proposed to be amended, prescribe such different terms, applicable to different production and marketing areas, as are necessary to give due recognition to differences in the production and marketing of such pears.

(5) Effective January 1, 1950, the parity price for pears grown in the area consisting of the States of Oregon, Washington, and California is to be computed in accordance with the provisions of the Agricultural Act of 1948 and the Agricultural Act of 1949. On the basis of information now available, the bearing acreage of pears in the area is such that with normal crops seasonal average prices to producers are not expected to exceed the aforesaid parity price.

Recommended amendments to the marketing agreement and order. The following amendments to the marketing agreement and order are recommended

as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Delete the provisions of paragraph (b) of section 1 *Definitions* of the marketing agreement and of § 939.1 *Definitions* of the order and substitute therefor the following:

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

2. Add the following new paragraph (l) to section 1 of the marketing agreement and § 939.1 of the order:

(l) "Export market" means any destination which is not within the 48 States, or the District of Columbia, of the United States.

3. Amend the second sentence of paragraph (a) of section 2 *Control Committee* of the marketing agreement and of § 939.2 *Control Committee* of the order to read as follows: "There shall be two (2) alternates, designated as the 'first alternate' and 'second alternate', respectively, for each member of the Control Committee."

4. Delete the provisions of paragraph (i) of section 2 of the marketing agreement and of § 939.2 of the order and substitute therefor the following:

(i) The first alternate for a member shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his first alternate shall act as member until a successor for the member is selected and has qualified. The second alternate for a member shall serve in the place and stead of the member for whom he is an alternate whenever both the member and his first alternate are unable to serve.

5. Delete the provisions in paragraph (m) (3) of section 2 of the marketing agreement and of § 939.2 of the order and substitute therefor the following:

(3) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions relative to pears, to engage in such research and service activities relative to the handling of pears as may be approved by the Secretary, and to furnish to the Secretary such available information as may be requested;

6. Delete paragraphs (a), (b), (c), and (d) of section 4 *Limitation of shipments* of the marketing agreement and of § 939.4 *Limitation of shipments* of the order and substitute therefor the following:

(a) *Recommendation by the Control Committee.* (1) It shall be the duty of the Control Committee to investigate, from time to time, supply and demand conditions relative to pears and each grade, size, and quality of each variety thereof. Such investigations by the Control Committee shall be with respect to the following:

(i) Estimated production of each variety of pears and of each grade, size and quality thereof;

(ii) Prospective supplies and prices of Bartlett pears and other fruits, both in fresh and processed form, which are competitive to the marketing of pears;

(iii) Prospective exports of pears and imports of pears from other producing areas;

(iv) Probable harvesting period for each variety of pears;

(v) The trend and level of consumer income;

(vi) General economic conditions; and

(vii) Other relevant factors.

(2) On or before August 1 of each year, the Control Committee shall recommend regulations to the Secretary if it finds, on the basis of the foregoing investigations, that such regulation as is provided in this section will tend to effectuate the declared policy of the act.

(3) In the event the Control Committee at any time finds that by reason of changed conditions any regulation issued pursuant to this section should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) *Issuance of regulations; and modification, suspension, or termination thereof.* (1) Whenever the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that regulation, in the manner specified in this section, of the shipment of pears would tend to effectuate the declared policy of the act, he shall so limit the shipment of pears during a specified period or periods. Such regulation: (i) May limit the total quantity of any grade, size, quality, or combinations thereof, of any variety of pears grown in any district and may prescribe different requirements applicable to shipments to different export markets; or (ii) may prescribe minimum standards of quality for any variety of pears and limit the shipment thereof to those meeting such minimum standards.

(2) Whenever the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of pears grown in any district in order to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such regulation. If the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate such modification or suspension.

(c) *Prerequisites to committee recommendations.* (1) Decisions of the Control Committee with respect to any recommendation to the Secretary pursuant to the provisions of this section shall be made by an affirmative vote of not less than eighty (80) percent of the applicable total number of votes, computed in the manner hereinafter prescribed in this section, of all committee members.

(2) With respect to a particular variety of pears, the applicable total number of votes shall be the aggregate of the votes allotted to the members of the committee in accordance with the following: Each member shall have one (1) vote as an individual and, in addition, shall have an equal share of the vote of the district represented by such member; and such district vote shall be computed by the Control Committee as soon as practical after the beginning of each fiscal period on the basis of one (1) vote for each 25,000 boxes of the average quantity (rounded to the nearest 25,000 boxes) of such variety produced in the particular district and shipped therefrom during the immediately preceding three (3) fiscal periods to destinations outside the State in which produced. The votes so allotted to a member of the Committee may be cast by such member on each recommendation relative to the variety of pears on which such votes were computed.

(d) *Notification.* (1) The Control Committee shall give prompt notice to growers and handlers of each recommendation to the Secretary pursuant to the provisions of this section.

(2) The Secretary shall immediately notify the Control Committee of the issuance of each regulation and of each modification, suspension, or termination of a regulation and the Control Committee shall give prompt notice thereof to growers and handlers.

7. Delete the provisions of paragraph (f) of section 4 of the marketing agreement and of § 939.4 of the order and substitute therefor the following:

(f) *Inspection and certification.* (1) No handler shall ship any pears not theretofore inspected, and a certificate issued with respect thereto, by a duly authorized representative of the Federal-State Inspection Service: *Provided*, That such inspection and certification of shipments of pears may be performed by such other inspection service as the Control Committee, with the approval of the Secretary, may designate. Promptly after shipment of any pears, the handler shall submit, or cause to be submitted, to the Control Committee a copy of the inspection certificate issued on such shipment.

8. Revise the heading of section 6 *Pears for by-products and charitable purposes* of the marketing agreement and § 939.6 *Pears for by-products and charitable purposes* of the order to read "Exemption from regulation" and add at the end thereof the following new paragraph:

(c) The Control Committee may, with the approval of the Secretary, designate storage warehouses within the area and prescribe rules and regulations whereby pears may be shipped to such storage warehouses exempt from the provisions hereof: *Provided*, That pears so shipped shall not thereafter be handled contrary to the provisions hereof.

Proposed recodification of Part 939. In accordance with the revised FEDERAL

REGISTER regulations, the format of the order (Order No. 39; F. R. Doc. 39-3103; 4 F. R. 3694; 7 CFR Part 939) of the Secretary of Agriculture, effective August 26, 1939 (including the requisite findings set forth therein), regulating the handling of Buerre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Buerre Easter, and Buerre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California, is proposed to be recodified as hereinafter set forth. Such recodification, however, incorporates the foregoing amendments. To facilitate identification of such amendments, there is provided the following listing of the sections affected by amendment:

Amendment No.	Order No. 39	Designation in new format
1	§ 939.1 (b)	§ 939.2
2	§ 939.1 (b) [1]	§ 939.12
3	§ 939.2 (a)	§ 939.20
4	§ 939.2 (i)	§ 939.28
5	§ 939.2 (m) (3)	§ 939.32 (c)
6	§ 939.4 (a)	§ 939.50
	§ 939.4 (b)	§ 939.51
	§ 939.4 (c)	§ 939.52
	§ 939.4 (d)	§ 939.53
7	§ 939.4 (f)	§ 939.60
8	§ 939.6 (c) [1]	§ 939.65 (c)

[1] New paragraph added.

The recasting of the format due to such recodification is not intended, nor shall it be deemed, to make any substantive change in the aforesaid order of the Secretary other than the changes effectuated by the foregoing amendments.

SUBPART—ORDER RELATIVE TO HANDLING

§ 939.0 *Findings.* (a) At the time of the hearing the prices received by the producers of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears were at a level that gave such varieties of pears a purchasing power with respect to articles that the producers thereof buy appreciably below the purchasing power of such varieties of pears during the base period;

(b) The regulation of shipments of such varieties of pears by grades or sizes, as prescribed herein, will serve to prevent marked fluctuations in prices to the producers thereof, and will establish and maintain a more stabilized market for such varieties of pears, tending to establish prices to the producers thereof at a level that will give such varieties of pears a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such varieties of pears during the base period;

(c) This order is limited in its application to the smallest regional production area and to the smallest regional marketing area that is practicable, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to any subdivision of such regional production or marketing areas would not effectively carry out the declared policy of the act;

(d) The pro rata contribution of handlers to the expenses of the administrative agency herein established, based upon the quantity of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears shipped, as provided in this order, is fair and equitable;

(e) This order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California by establishing and maintaining such orderly marketing conditions therefor as will establish prices to the producers thereof at a level that will give such varieties of pears a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such varieties of pears in the base period, and by protecting the interest of the consumer by (1) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (2) authorizing no action which has for its purpose the maintenance of prices to the producers of such varieties of pears above the level which it is declared in the act to be the policy of Congress to establish;

(f) A marketing agreement regulating the handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California, executed on the 22d day of August 1939, upon which hearings were held on May 26, May 29, May 31, and June 1, 1939, was signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the varieties of pears covered by this order) who, during the 1938 season, handled not less than fifty (50) percent of the volume of the varieties of pears covered by this order which were marketed during the same season in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce;

(g) This order regulates the handling of such varieties of pears in the same manner as the aforesaid marketing agreement, and it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement; and

(h) The issuance of this order is favored by more than two-thirds (⅔) of the producers who, during the 1938 season (which is hereby determined to be a representative period), produced the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears for market within the States of Oregon, Washington, and California.

Order relative to handling. Now, therefore, it is ordered by the Secretary, acting under the authority vested in him by the act, that such handling of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California as is in the current of commerce, or as directly burdens, obstructs, or affects commerce, from the State of Oregon, the State of Washington, or the State of California to any point outside thereof, shall be in conformity to and in compliance with the terms and conditions of this order from and after the date herein specified.

DEFINITIONS

§ 939.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States.

§ 939.2 *Act.* "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

§ 939.3 *Person.* "Person" means an individual, partnership, corporation, association, legal representative, or any organized group of individuals.

§ 939.4 *Pears.* "Pears" means and includes any and all of the Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in the States of Oregon, Washington, and California.

§ 939.5 *Size.* "Size" means the number of pears which can be packed in a standard western pear box 18" long, 11½" wide and 8½" deep (inside measurements) when packed in accordance with the packing requirements of the U. S. Standards for Pears, effective July 1, 1939, or as such standards hereafter may be modified or as "size" may be more specifically defined in a regulation issued hereunder.

§ 939.6 *Grower.* "Grower" means any person engaged in the production of pears, either as owner or as tenant.

§ 939.7 *Handler.* "Handler" means any person (except a common carrier of pears owned by another person) who, as owner, agent, broker, or otherwise, ships or handles pears, or causes pears to be shipped or handled, in fresh form by rail, truck, boat, or any other means whatsoever.

§ 939.8 *Ship or handle.* "To ship" or "to handle" means to sell, deliver, handle for shipment, transport, or offer for transportation pears in the current of commerce, or so as directly to burden, obstruct, or affect commerce, from the State of Oregon, the State of Washington, or the State of California to any point outside thereof.

§ 939.9 *Fiscal period.* "Fiscal period" means the period beginning July 1 of any year and ending June 30 of the following year.

§ 939.10 *Area.* "Area" means and includes the States of Oregon, Washington, and California.

§ 939.11 *District.* "District" means the applicable one of the following-de-

scribed subdivisions of the area covered by the provisions of this subpart:

(a) Medford District shall include the counties of Jackson, Josephine, Curry, Coos, Douglas, Lane, and Klamath in the State of Oregon.

(b) Hood River-White Salmon-Underwood District shall include all of the State of Oregon not included in the Medford District, and the counties of Skamania and Klickitat in the State of Washington.

(c) Wenatchee District shall include the counties of Chelan, Okanogan, Douglas, and Spokane in the State of Washington.

(d) Yakima District shall include all of the State of Washington not included in the Wenatchee District or in the Hood River-White Salmon-Underwood District.

(e) Placerville District shall include all counties north of the northern boundaries of San Francisco, Contra Costa, San Joaquin, Calaveras, and Alpine Counties in the State of California.

(f) Santa Clara District shall include all of the State of California not included in the Placerville District.

§ 939.12 *Export market.* "Export market" means any destination which is not within the 48 States, or the District of Columbia, of the United States.

CONTROL COMMITTEE

§ 939.20 *Establishment.* A Control Committee, consisting of 12 individual persons as its members, is hereby established to administer the terms and provisions of this subpart as specifically provided in §§ 939.20 to 939.35. There shall be two alternates, designated as the "first alternate" and the "second alternate," respectively, for each member of the committee. Six members of the Control Committee and their respective alternates shall be growers of pears, and six members and their respective alternates shall be handlers of pears. Each district shall be represented on the committee by one grower member and one handler member.

§ 939.21 *Nomination and selection of members and their respective alternates.* The grower members and their respective alternates for each district shall be selected by the Secretary from nominees elected by the growers in such district, and the handler members and their respective alternates for each district shall be selected by the Secretary from nominees elected by the handlers in such district.

§ 939.22 *Meetings for election of nominees.* Nominations for members of the Control Committee and their alternates shall be made at meetings of growers and handlers held in each of the districts designated in § 939.11 at such times and places as the Control Committee shall designate. At each of such meetings the growers or handlers eligible to participate therein shall select a chairman and a secretary of that meeting. In the election of nominees, each grower and each handler shall be entitled to vote in accordance with the provisions of § 939.23. The chairman of the meeting shall announce at the meeting the name of each person for whom votes have been cast, whether as a member or as an alternate for a member, and the number of votes cast for each such person; and the chairman or the secretary of such meeting shall forthwith transmit such information to the Secretary or his designated representative.

§ 939.23 *Voting.* Only growers in attendance at meetings for election of nominees shall participate in the nomination of grower members and their alternates, and only handlers in attendance at meetings for election of nominees shall participate in the nomination of handler members and their alternates. A grower may participate only in the election held in the district in which he produces pears, and a handler may participate only in the election held in the district or districts in which he handles pears. No person may vote both as a handler and as a grower. Each grower and each handler shall be entitled to cast one vote, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, for each nominee to be elected.

§ 939.24 *Eligibility for membership.* Each grower member and each of his alternates shall be a grower who grows pears in the district in which and for which he is nominated and selected. Each handler member and each of his alternates shall be a handler, or an officer or employee of a handler, handling pears in the district in and for which he is nominated and selected.

§ 939.25 *Failure to nominate.* In the event nominations are not made pursuant to §§ 939.21 and 939.22 on or before June 1 of any year, the Secretary may select members and alternates for members without regard to nominations.

§ 939.26 *Qualifications.* Any person selected by the Secretary as a member or as an alternate for a member of the Control Committee shall qualify by filing a written acceptance with the Secretary within 15 days after being notified of such selection.

§ 939.27 *Term of office.* Each member and each alternate for a member shall serve during the fiscal period for which he has been selected or until his successor is selected and has qualified.

§ 939.28 *Alternates for members of the Control Committee.* The first alternate for a member shall act in the place and stead of the member for whom he is an alternate during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his first alternate shall act as a member until a successor for the member is selected and has qualified. The second alternate for a member shall serve in the place and stead of the member for whom he is an alternate whenever both the member and his first alternate are unable to serve.

§ 939.29 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate for a member of the Control Committee to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or qualified alternate for a member, a successor for his unexpired term shall be nominated and selected in the manner set forth in §§ 939.20 to 939.35. If nominations to fill any such vacancy are not made within 20 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations.

§ 939.30 *Compensation and expenses.* The members and alternates for members of the Control Committee shall serve without compensation, but may be reimbursed for expenses necessarily incurred by them in the performance of their respective duties.

§ 939.31 *Powers of Control Committee.* The Control Committee shall have the following powers:

(a) To administer, as specifically provided in §§ 939.20 to 939.35, the terms and provisions of this subpart;

(b) To make administrative rules and regulations in accordance with, and to effectuate, the terms and provisions of this subpart; and

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart.

§ 939.32 *Duties of Control Committee.* The duties of the Control Committee shall be as follows:

(a) To act as intermediary between the Secretary and any grower or handler;

(b) To keep minutes, books, and records which will reflect clearly all of the acts and transactions of the Control Committee, which minutes, books, and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary;

(c) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions relative to pears, to engage in such research and service activities relative to the handling of pears as may be approved by the Secretary, and to furnish to the Secretary such available information as may be requested;

(d) To perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of section 32 of the act to amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved August 24, 1935 (49 Stat. 774), as amended;

(e) To cause the books of the Control Committee to be audited by one or more competent accountants at the end of each fiscal year and at such other times as the Control Committee may deem necessary or as the Secretary may request, and to file with the Secretary copies of any and all audit reports made;

(f) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

(g) To give the Secretary, or the designated agent of the Secretary, the same notice of meetings of the Control Committee as is given to the members of the Control Committee;

(h) To select a chairman of the Control Committee and, from time to time,

such other officers as it may deem advisable; and

(i) To submit to the Secretary each fiscal period a budget of its expenses during that fiscal year.

§ 939.33 *Procedure of Control Committee*—(a) *Quorum and voting.* A quorum shall consist of nine members, or alternates then serving in the place and stead of any members, in attendance at the meeting. Except as otherwise provided in § 939.52, all decisions of the Control Committee shall be made by not fewer than seven affirmative votes.

(b) *Mail voting.* The Control Committee may provide for members voting by mail, telephone, or telegraph, upon due notice to all members. Promptly after voting by telephone or telegraph, each member thus voting shall confirm in writing, the vote so cast.

§ 939.34 *Rights of the Secretary.* The members and alternates for members of the Control Committee and any agent or employee appointed or employed by the Control Committee shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the Control Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 939.35 *Funds and other property.* (a) All funds received by the Control Committee pursuant to any of the provisions of this subpart shall be used solely for the purposes herein specified, and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

(b) Upon the death, resignation, removal, disqualification, or expiration of the term of office of any member or employee of the Control Committee, all books, records, funds, and other property in his possession belonging to the Control Committee shall be delivered to his successor in office or to the Control Committee, and such assignments and other instruments shall be executed as may be necessary to vest in such successor or in the Control Committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee pursuant to this subpart.

EXPENSES AND ASSESSMENTS

§ 939.40 *Expenses.* The Control Committee is authorized to incur such expenses as the Secretary finds may be necessary to carry out its functions under this subpart. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 939.41.

§ 939.41 *Assessments.* Assessments will be levied only upon the handler who first handles pears which subsequently are shipped from the State of Oregon, the State of Washington, or the State of California. Such handler shall pay to the Control Committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds necessarily will be incurred by the Control Committee for the maintenance and functioning of the Control Committee during each fiscal period. Such handler's pro rata share of such expenses shall be that proportion thereof which the total quantity of pears first handled by that handler during such fiscal period is of the total quantity of pears first handled by all handlers during that fiscal period. The Secretary shall fix the rate of assessment to be paid by such handler, which rate may be adjusted from time to time by the Control Committee, with the approval of the Secretary, in order to cover any later findings by the Secretary of estimated expenses or the actual expenses of the Control Committee during said fiscal period.

§ 939.42 *Handler accounts.* At the end of each fiscal period the Control Committee shall credit each handler assessed with any amount paid by such handler in excess of his pro rata share of the expenses, or shall debit such handler with the deficiency between his pro rata share and the amount paid by him. Any such debits shall become due and payable upon demand by the Control Committee.

§ 939.43 *Use of funds.* From the funds acquired pursuant to § 939.41 the Control Committee shall pay the salaries of its employees, if any, and pay the expenses necessarily incurred in the performance of the duties of the Control Committee.

§ 939.44 *Collection of unpaid assessments.* The Control Committee, with the approval of the Secretary, may institute and maintain, in its own name or in the names of its members, legal proceedings against any handler assessed for the collection of such handler's pro rata share of the aforesaid expenses.

REGULATION OF SHIPMENTS

§ 939.50 *Recommendation by the Control Committee.* (a) It shall be the duty of the Control Committee to investigate, from time to time, supply and demand conditions relative to pears and each grade, size, and quality of each variety thereof. Such investigations by the Control Committee shall be with respect to the following: (1) Estimated production of each variety of pears and of each grade, size and quality thereof; (2) prospective supplies and prices of Bartlett pears and other fruits, both in fresh and processed form, which are competitive to the marketing of pears; (3) prospective exports of pears and imports of pears from other producing areas; (4) probable harvesting period for each variety of pears; (5) the trend and level of consumer income; (6) general economic conditions; and (7) other relevant factors.

(b) On or before August 1 of each year, the Control Committee shall recommend regulations to the Secretary if it finds, on the basis of the foregoing investigations, that such regulation as is provided in § 939.51 will tend to effectuate the declared policy of the act.

(c) In the event the Control Committee at any time finds that by reason of changed conditions any regulation issued pursuant to § 939.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

§ 939.51 *Issuance of regulations; and modification, suspension, or termination thereof.* (a) Whenever the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that regulation, in the manner specified in this section, of the shipment of pears would tend to effectuate the declared policy of the act, he shall so limit the shipment of pears during a specified period or periods. Such regulation: (1) May limit the total quantity of any grade, size, quality, or combinations thereof, of any variety of pears grown in any district and may prescribe different requirements applicable to shipments to different export markets; or (2) may prescribe minimum standards of quality for any variety of pears and limit the shipment thereof to those meeting such minimum standards.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that a regulation should be modified, suspended, or terminated with respect to any or all shipments of pears grown in any district in order to effectuate the declared policy of the act, he shall so modify, suspend, or terminate such regulation. If the Secretary finds, from the recommendations and information submitted by the Control Committee, or from other available information, that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate such modification or suspension.

§ 939.52 *Prerequisites to committee recommendations.* (a) Decisions of the Control Committee with respect to any recommendation to the Secretary pursuant to the provisions of § 939.50 shall be made by an affirmative vote of not less than 80 percent of the applicable total number of votes, computed in the manner hereinafter prescribed in this section, of all committee members.

(b) With respect to a particular variety of pears, the applicable total number of votes shall be the aggregate of the votes allotted to the members of the committee in accordance with the following: Each member shall have one vote as an individual and, in addition, shall have an equal share of the vote of the district represented by such member; and such district vote shall be computed by the Control Committee as soon as practical after the beginning of each fiscal period on the basis of one vote for each 25,000 boxes of the average quantity (rounded to the nearest 25,000 boxes) of such variety produced in the particular district and shipped therefrom during the immediately preceding three fiscal periods to destinations outside the State in which produced. The votes so allotted to a member of the committee may be cast by such member on each recommendation relative to the variety of pears on which such votes were computed.

§ 939.53 *Notification.* (a) The Control Committee shall give prompt notice to growers and handlers of each recommendation to the Secretary pursuant to the provisions of § 939.50.

(b) The Secretary shall immediately notify the Control Committee of the issuance of each regulation and of each modification, suspension, or termination of a regulation and the Control Committee shall give prompt notice thereof to growers and handlers.

§ 939.54 *Exemption certificates.* (a) As soon as practicable after the beginning of each fiscal period the Control Committee shall adopt and announce the procedural rules by which exemption certificates may be issued to growers. The Control Committee shall determine the percentage which the grades and sizes of each variety of pears permitted to be shipped from each district under the regulation bears to the total quantity of each variety of pears which could be shipped from that district in the absence of regulation. An exemption certificate may thereafter be granted to any grower who furnishes proof that he will be prevented, because of the regulation in effect, from shipping a percentage of a particular variety of his pears equal to the percentage of pears of that particular variety permitted to be shipped from his district as determined by the Control Committee. Such exemption certificate shall permit the grower to ship that quantity of the particular variety of pears of the regulated grades and sizes of such variety as will enable him to ship as large a percentage of such variety of his pears as the average percentage of that particular variety of pears that is permitted to be shipped by all growers in his district.

(b) In the event the Control Committee shall determine and report to the Secretary that, by reason of general crop failure or other extraordinary conditions within a particular district, it is not feasible and would not be equitable to issue exemption certificates to growers within that district on the basis of the average percentage of the pears grown in the district which may be shipped in compliance with the requirements of § 939.51, the Secretary may prescribe such other basis for the issuance of such certificates to growers within that district as he may find to be feasible, equitable, and proper.

(c) The Secretary shall have power to modify, change, alter, or amend any procedural rules and any exemption granted under this section.

INSPECTION

§ 939.60 *Inspection and certification.* No handler shall ship any pears not theretofore inspected, and a certificate issued with respect thereto, by a duly authorized representative of the Federal-State Inspection Service: *Provided,* That such inspection and certification of shipments of pears may be performed by such other inspection service as the Control Committee, with the approval of the Secretary, may designate. Promptly after shipment of any pears, the handler shall submit, or cause to be submitted, to the Control Committee a copy of the inspection certificate issued on such shipment.

EXCEPTIONS

§ 939.65 *Exemption from regulation.* (a) Nothing contained in this subpart shall limit or authorize the limitation of shipment of pears for consumption by charitable institutions or distribution by relief agencies or conversion into by-products, nor shall any assessment be computed on pears so shipped. The Control Committee may prescribe regulations to prevent pears shipped for either of such purposes from entering commercial fresh-fruit channels of trade contrary to the provisions of this subpart.

(b) The Control Committee shall prescribe rules and regulations, to become effective upon the approval of the Secretary, whereby shipments of pears in individual gift packages may be exempted from the provisions of this subpart.

(c) The Control Committee may, with the approval of the Secretary, designate storage warehouses within the area and prescribe rules and regulations whereby pears may be shipped to such storage warehouses exempt from the provisions of this subpart: *Provided,* That pears so shipped shall not thereafter be handled contrary to the provisions of this subpart.

MISCELLANEOUS PROVISIONS

§ 939.70 *Reports.* Upon the request of the Control Committee, subject to the disapproval of the Secretary, each handler shall furnish to the Control Committee, in such manner and at such times as it prescribes, such information as will enable it to perform its duties under this subpart.

§ 939.71 *Compliance.* Except as provided in § 939.65, no handler shall ship any pears contrary to the applicable restrictions and limitations specified in, or effective pursuant to, the provisions of this subpart.

§ 939.72 *Duration of immunities.* The benefits, privileges, and immunities conferred by virtue of this subpart shall cease upon termination hereof, except with respect to acts done under and during the existence of this subpart.

§ 939.73 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remaining provisions and the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 939.74 *Derogation.* Nothing contained in this subpart is or shall be construed to be in derogation of, or in modification of, the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 939.75 *Liability of Control Committee members.* No member or alternate for a member of the Control Committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any party under this subpart or to any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate for a member, or employee, except for acts of dishonesty.

§ 939.76 *Agents.* The Secretary may name, by a designation in writing, any person, including any officer or employee of the Government, or any bureau or division in the Department of Agriculture to act as his agent or representative in connection with any of the provisions of this subpart.

§ 939.77 *Effective time.* The provisions of this subpart shall become effective August 26, 1939, and shall continue in force until terminated in one of the ways specified in § 939.78.

§ 939.78 *Termination.* (a) The Secretary may at any time terminate this subpart.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such operation obstructs or does not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of the growers of pears who, during such fiscal period, have been engaged in the area in the production of pears for market: *Provided,* That such majority have produced for market during such period more than 50 percent of the volume of pears produced for market in the area; but such termination shall be effective only if announced on or before June 30 of that fiscal period.

(d) The provisions of this subpart shall terminate, in any event, whenever the provisions of the act authorizing the same cease to be in effect.

§ 939.79 *Proceedings after termination.* (a) Upon the termination of this subpart, the members of the Control Committee then functioning shall continue as joint trustees for the purpose of liquidating all funds and property then in the possession or under the control of the Control Committee, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The joint trustees shall continue in such capacity until discharged by the Secretary; from time to time account for all receipts and disbursements; deliver all funds and property on hand, together with all books and records of the Control Committee and of the joint trustees, to such person as the Secretary shall direct; and, upon the request of the Secretary, execute such assignments or other instruments necessary and appropriate to vest in such person full title to all of the funds or claims vested in the Control Committee or in said joint trustees.

(c) Any funds collected pursuant to this subpart and held by such joint trustees or such person over and above the amounts necessary to meet outstanding obligations and the expenses necessarily

incurred by the joint trustees or such other person in the performance of their duties under this subpart, as soon as practicable after the terminaton hereof, shall be returned to the handlers pro rata in proportion to their contributions thereto.

(d) Any person to whom funds, property, or claims have been delivered by the Control Committee or its members, upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members of said Committee or upon said joint trustees.

§ 939.80 *Amendments.* Amendments to this subpart may be proposed from time to time by the Control Committee or by the Secretary.

§ 939.81 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart or the issuance of any amendment to either, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued hereunder, or (b) release or extinguish any violation of this subpart or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

Done at Washington, D. C. this 19th day of June 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 50-5395; Filed, June 21, 1950; 8:51 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR, Part 697]

MINIMUM WAGE RATE IN THE BUTTON, BUCKLE, AND JEWELRY INDUSTRY IN PUERTO RICO

NOTICE OF PROPOSED RULE MAKING

On October 27, 1949, pursuant to section 5 of the Fair Labor Standards Act of 1938, as amended, hereinafter called the act, I, as Administrator of the Wage and Hour Division, United States Department of Labor, by Administrative Order No. 389, appointed Special Industry Committee No. 6 for Puerto Rico, hereinafter called the Committee, and directed the Committee to investigate conditions in a number of industries in Puerto Rico specified and defined in the order, including the button, buckle, and jewelry industry, and to recommend minimum wage rates for employees engaged in commerce or in the production of goods for commerce in such industries.

For purposes of investigating conditions in and recommending minimum wage rates for the button, buckle, and jewelry industry in Puerto Rico, the Committee included three disinterested persons representing the public, a like number representing employers, and a like number representing employees in the button, buckle, and jewelry industry, and was composed of residents of Puerto Rico and of the United States outside of Puerto Rico.

After investigating economic and competitive conditions in the button, buckle, and jewelry industry in Puerto Rico, the Committee filed with me a report containing (a) its recommendation that the button, buckle, and jewelry industry in Puerto Rico, as defined in Administrative Order No. 389, be divided into separable divisions for the purpose of fixing minimum wage rates; (b) the titles and definitions recommended by the Committee for such separable divisions of the industry; and (c) its separable recommendations for minimum wage rates to be paid employees engaged in commerce or in the production of goods for commerce in the separable recommended divisions of the button, buckle, and jewelry industry in Puerto Rico, namely:

(1) 46 cents an hour to employees in the pearl button and buckle division;

(2) 40 cents an hour to employees in the button and buckle (other than pearl) and bead division;

(3) 30 cents an hour to employees in the rosary, necklace, and native jewelry division; and

(4) 45 cents an hour to employees in the metal and plastic jewelry and miscellaneous products division.

Pursuant to notice published in the FEDERAL REGISTER on February 25, 1950, and circulated to all interested persons, a public hearing upon the Committee's recommendation was held before Hearing Examiner Clifford P. Grant, as presiding officer, in Washington, D. C., on March 22, 1950, at which all interested parties were given an opportunity to be heard. After the hearing was closed the record of the hearing was certified to me by the presiding officer.

Upon reviewing all the evidence adduced in this proceeding and after giving full consideration to the provisions of the act, particularly sections 5 and 8 thereof, I have concluded that the recommendations of the Committee for minimum rates in the button, buckle, and jewelry industry in Puerto Rico, as defined, were made in accordance with law, are supported by the evidence adduced at the hearing, and taking into consideration the same factors as are required to be considered by the Committee, will carry out the purposes of sections 5 and 8 of the act.

I have set forth my decision in a document entitled "Findings and Opinion of the Administrator in the Matter of the Recommendations of Special Industry Committee No. 6 for Puerto Rico for Minimum Wage Rates in the button, buckle, and jewelry industry in Puerto Rico", a copy of which may be had upon request addressed to the Wage and Hour Division, United States Department of Labor, Washington 25, D. C.

Accordingly, notice is hereby given, pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) and the rules of practice governing this proceeding (15 F. R. 1049), that I propose to approve such recommendations of the Committee and to issue a wage order for the button, buckle, and jewelry industry in Puerto Rico to read as set forth below to carry such recommendations into effect. Interested parties may submit written exceptions within 15 days from publication of this notice in the FEDERAL REGISTER. Exceptions should be addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C. They should be submitted in quadruplicate and should include supporting reasons for any exceptions.

Sec.
697.1 Approval of recommendations of Industry Committee.
697.2 Wage rates.
697.3 Notices of order.
697.4 Definitions of the button, buckle, and jewelry industry in Puerto Rico and its divisions.

AUTHORITY: §§ 697.1 to 697.4 issued under sec. 8, 63 Stat. 915; 29 U. S. C. 208. Interpret or apply sec. 5, 63 Stat. 911; 29 U. S. C. 205.

§ 697.1 *Approval of recommendations of Industry Committee.* The Committee's recommendations are hereby approved.

§ 697.2 *Wage rates.* (a) Wages at a rate of not less than 46 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the pearl button and buckle division of the button, buckle and jewelry industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

(b) Wages at a rate of not less than 40 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the button and buckle (other than pearl) and bead division of the button, buckle, and jewelry industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

(c) Wages at a rate of not less than 30 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the rosary, necklace and native jewelry division of the button, buckle, and jewelry industry in Puerto Rico, who is engaged in commerce or in the production of goods for commerce.

(d) Wages at a rate of not less than 45 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the metal and plastic jewelry and miscellaneous products division of the button, buckle and jewelry industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

§ 697.3 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the button, buckle and jewelry industry in Puerto Rico shall keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as

shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Division may prescribe.

§ 697.4 *Definitions of the button, buckle and jewelry industry in Puerto Rico and its divisions.* (a) The button, buckle, and jewelry industry in Puerto Rico, to which this order shall apply, is hereby defined as follows:

The manufacture from any material of buttons, buckles, jewelry (including rosaries), and jewelry findings (including beads): *Provided, however,* That the definition shall not include the cutting, grinding, polishing, and other processing of gem diamonds and other precious and semiprecious stones, and of natural or synthetic jewels for industrial use, including, but not by way of limitation, jewel bearings and industrial diamonds.

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

(b) The separable divisions of the industry, as defined in paragraph (a) of this section, to which this wage order and its several provisions shall apply, are hereby defined as follows:

(1) *Pearl button and buckle division.* The manufacture of buttons and buckles from ocean pearl and other natural shells.

(2) *Button and buckle (other than pearl) and bead division.* The manufacture of buttons and buckles from any material except ocean pearl and other natural shells; and the manufacture of metal, glass and plastic beads, but not including the pearlizing or further processing or assembling of beads into necklaces, bracelets and similar jewelry items.

(3) *Rosary, necklace, and native jewelry division.* The assembling of rosaries; the stringing of artificial pearl and other necklaces, bracelets and similar jewelry items, including pearlizing and other processing operations; and the manufacture of novelty jewelry from native materials such as seeds, shells, natural fibers and similar materials.

(4) *Metal and plastic and miscellaneous products division.* The manufacture of metal and plastic jewelry and jewelry findings, and all other products and activities included in the button, buckle and jewelry industry, as defined in paragraph (a) of this section, except those included in the pearl button and buckle division, the button and buckle (other than pearl) and bead division, and the rosary, necklace and native jewelry division, as defined in paragraph (b) of this section.

Signed at Washington, D. C., this 16th day of June 1950.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 50-5359; Filed, June 21, 1950; 8:46 a. m.]

[29 CFR, Part 698]

MINIMUM WAGE RATE IN THE VEGETABLE, FRUIT, AND NUT PACKING AND PROCESSING INDUSTRY IN PUERTO RICO

NOTICE OF PROPOSED RULE MAKING

On October 27, 1949, pursuant to section 5 (a) of the Fair Labor Standards Act of 1938, as amended, hereinafter called the act, I, as Administrator of the Wage and Hour Division, United States Department of Labor, by Administrative Order No. 389, appointed Special Industry Committee No. 6 for Puerto Rico, hereinafter called the Committee, and directed the Committee to investigate conditions in a number of industries in Puerto Rico specified and defined in the order, including the vegetable, fruit, and nut packing and processing industry, and to recommend minimum wage rates for employees engaged in commerce or in the production of goods for commerce in such industries.

For purposes of investigating conditions in and recommending minimum wage rates for the vegetable, fruit, and nut packing and processing industry in Puerto Rico, the Committee included three disinterested persons representing the public, a like number representing employers, and a like number representing employees in the vegetable, fruit, and nut packing and processing industry, and was composed of residents of Puerto Rico and of the United States outside of Puerto Rico.

After investigating economic and competitive conditions in the vegetable, fruit, and nut packing and processing industry in Puerto Rico, the Committee filed with me a report containing its recommendation for a minimum wage rate of 30 cents per hour to be paid employees in the industry who are engaged in commerce or in the production of goods for commerce.

Pursuant to notice published in the FEDERAL REGISTER on February 25, 1950, and circulated to all interested persons, a public hearing upon the Committee's recommendation was held before Hearing Examiner Clifford P. Grant, as presiding officer, in Washington, D. C., on April 3, 1950, at which all interested parties were given an opportunity to be heard. After the hearing was closed the record of the hearing was certified to me by the presiding officer.

Upon reviewing all the evidence adduced in this proceeding and after giving consideration to the provisions of the act, particularly sections 5 and 8 thereof, I have concluded that the recommendation of the Committee for a minimum wage rate in the vegetable, fruit, and nut packing and processing industry in Puerto Rico, as defined, was made in accordance with law, is supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the Committee, will carry out the purposes of sections 5 and 8 of the act.

I have set forth my decision in a document entitled "Findings and Opinion of the Administrator in the Matter of the Recommendation of Special Industry Committee No. 6 for Puerto Rico for a minimum wage rate in the vegetable, fruit, and nut packing and processing industry in Puerto Rico," a copy of which may be had upon request addressed to the Wage and Hour Division, United States Department of Labor, Washington 25, D. C.

Accordingly, notice is hereby given, pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) and the rules of practice governing this proceeding (15 F. R. 1049), that I propose to approve such recommendation of the Committee and to issue a wage order for the vegetable, fruit, and nut packing and processing industry in Puerto Rico to read as set forth below to carry such recommendation into effect. Interested parties may submit written exceptions within 15 days from publication of this notice in the FEDERAL REGISTER. Exceptions should be addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C. They should be submitted in quadruplicate, and should include supporting reasons for any exceptions.

Sec.
698.1 Approval of recommendation of Industry Committee.
698.2 Wage rate.
698.3 Notices of order.
698.4 Definition of the vegetable, fruit, and nut packing and processing industry in Puerto Rico.

AUTHORITY: §§ 698.1 to 698.4 issued under sec. 8, 63 Stat. 915; 29 U. S. C. 208. Interpret or apply sec. 5, 63 Stat. 911; 29 U. S. C. 205.

§ 698.1 *Approval of recommendation of Industry Committee.* The Committee's recommendation is hereby approved.

§ 698.2 *Wage rate.* Wages at the rate of not less than 30 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the vegetable, fruit, and nut packing and processing industry in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

§ 698.3 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the vegetable, fruit, and nut packing and processing industry in Puerto Rico shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Division may prescribe.

§ 698.4 *Definition of the vegetable, fruit, and nut packing and processing industry in Puerto Rico.* The vegetable, fruit, and nut packing and processing industry in Puerto Rico, to which this order shall apply, is hereby defined as follows: The handling, grading, packing, preparing in the raw or natural state of fresh vegetables, fresh fruits, and nuts; the drying, salting, processing in brine, or other curing of fruits and fruit peels; the drying and other preparation of vanilla beans, coffee beans, and cocoa beans; the canning of vegetables, fruits,

and fruit juices; and the manufacture or processing (and the packaging in conjunction therewith) of coffee, cocoa, unsweetened chocolate, jams, preserves, marmalades, jellies, fruit pastes, and similar products.

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

Signed at Washington, D. C., this 16th day of June 1950.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 50-5366; Filed, June 21, 1950; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Parts 40 and 61]

ISSUANCE OF AIR CARRIER OPERATING CERTIFICATES TO PERSONS HOLDING TEMPORARY CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board an extension of the provisions of Special Civil Air Regulation SR-335 until August 31, 1951.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted, in duplicate, to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received by July 24, 1950, will be considered by the Board before taking further action on the proposed rule. Copies of the communications received will be available after July 27, 1950, for perusal by interested persons at the Docket Section of the Board, Room 5412, Commerce Building, Washington, D. C.

Currently effective Special Civil Air Regulation SR-335 which terminates August 31, 1950, authorizes the Administrator to issue air carrier operating certificates, or amendments thereto, under conditions which do not fully meet the requirements of Parts 40 and 61 of the Civil Air Regulations, to air carriers holding temporary certificates of public convenience and necessity issued by the Board. At the time that regulation was adopted, it was anticipated that prior to its established termination date appropriate revisions of Parts 40 and 61 would be promulgated to govern such carriers. However, while this Bureau has been actively engaged in the development of appropriate requirements, the project has not been completed. Pending the adoption of such requirements by the Board, it is believed that authority should be continued for the issuance of air carrier operating certificates, or amendments thereto, under conditions which do not fully meet the requirements of Parts 40 and 61, to air carriers holding temporary certificates of public convenience and necessity.

Accordingly, it is proposed to adopt the following Special Civil Air Regulation to be effective during the period from September 1, 1950, to August 31, 1951:

An air carrier operating certificate, or amendments thereto, may be issued by the Administrator to an air carrier holding a temporary certificate of public convenience and necessity, issued by the Board, authorizing such carrier to engage in scheduled air carrier operations which do not fully meet the certification and operation requirements of Parts 40 and 61 of the Civil Air Regulations, if the Administrator finds that any of such requirements can be omitted or modified without adversely affecting safety. Such omissions or modifications, when approved by the Administrator, shall be listed in the air carrier operating certificate, and the Administrator shall promptly notify the Board of the omissions or modifications approved by him and the reasons therefor.

This regulation is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Sec. 205 (a), 52 Stat. 984, 49 U. S. C. 425 (a). Interpret or apply secs. 601-610, 52 Stat. 1007-1012, 62 Stat. 1216, 49 U. S. C. 551-560, act of July 1, 1948)

Dated June 16, 1950, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 50-5398; Filed, June 21, 1950; 8:52 a. m.]

[14 CFR, Parts 41, 42 and 61]

SERVICE HISTORY FOR PROPELLERS

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board amendments of Parts 41, 42, and 61 of the Civil Air Regulations in substance as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted, in duplicate, to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received prior to July 24, 1950, will be considered by the Board before taking further action on the proposed rules. Copies of such communications will be available after July 27, 1950, for perusal by interested persons at the Docket Section of the Board, Room 5412, Commerce Building, Washington 25, D. C.

Currently effective Parts 41, 42, and 61 require air carriers to maintain current total service records with respect to propellers (hubs and blades). Part 61 additionally provides that a new record may be used in the case of propellers for which there is no previous operating history, after the propeller hub is rebuilt by a certificated repair station having the proper rating or by the manufacturer, and new propeller blades or propeller blades with complete operating history are installed therein.

Under the current regulation difficulty has been encountered when air carriers have attempted to use war surplus propellers for which in many cases the total military time is not obtainable. These propellers are generally Hamilton standard aluminum alloy propellers used on Douglas DC-3, C-47, DC-4, Lockheed 18, and Curtis C-46 airplanes. A study of the previous operating experience with respect to propellers has been made by this Bureau, and as a result thereof we believe that it is unnecessary to retain the requirement that a complete record of the total time in service for propeller blades or hubs be available. For example, aluminum alloy blades are considered to have a good service record, since only two such blades have failed in scheduled and irregular operations during the past ten years. In this connection it should be noted that the blade failure in the case of scheduled operations did have its total time recorded and had been overhauled by the manufacturer. In view of the satisfactory operating service experience with propellers it is believed that the level of passenger safety will not be adversely affected if propellers having no previous operating history are utilized after the hub is rebuilt and is fitted with blades which are free from defects and which are within the manufacturer's production tolerances, and if such rebuilding is accomplished by the manufacturer or by a certificated repair station.

Accordingly, it is proposed to amend Parts 41, 42, and 61 as follows:

By adding a provision to §§ 41.43 and 42.91, and by amending the second paragraph of § 61.87 to read as follows:

Except where otherwise determined by the Administrator, a new record may be used in the case of propellers for which there is no previous operating history, if the hub is rebuilt and is fitted with blades which are free from defects and within the manufacturer's production tolerances. Such rebuilding of the propeller shall be accomplished by the manufacturer or by a certificated repair station having the proper rating. The new record shall be signed by the manufacturer or by the repair agency, giving the date the propeller hub or blade was rebuilt and such other information as the Administrator may require.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Sec. 205 (a), 52 Stat. 984, 49 U. S. C. 425 (a). Interpret or apply secs. 601-610, 52 Stat. 1007-1012, 62 Stat. 1216, 49 U. S. C. 551-560, act of July 1, 1948)

Dated June 16, 1950, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 50-5399; Filed, June 21, 1950; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Fiscal Service, Bureau of the Public Debt

[1950 Dept. Circ. 867]

1¼ PERCENT TREASURY NOTES OF SERIES E–1951

OFFERING OF NOTES

JUNE 21, 1950.

I. *Offering of Notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par, from the people of the United States for notes of the United States, designated 1¼ percent Treasury Notes of Series E–1951, in exchange for Treasury Certificates of Indebtedness of Series F–1950, maturing July 1, 1950.

II. *Description of Notes.* 1. The notes will be dated July 1, 1950, and will bear interest from that date at the rate of 1¼ percent per annum, payable with the principal at maturity on August 1, 1951. They will not be subject to call for redemption prior to maturity.

2. The income derived from the notes shall be subject to all taxes now or hereafter imposed under the Internal Revenue Code, or laws amendatory or supplementary thereto. The notes shall be subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but shall be exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. The notes will not be issued in registered form.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States notes.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Treasury Department, Washington. Banking institutions generally may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies.

2. The Secretary of the Treasury reserves the right to reject any subscription, in whole or in part, to allot less than the amount of notes applied for, and to close the books as to any or all subscriptions at any time without notice; and any action he may take in these respects shall be final. Subject to these reservations, all subscriptions will be allotted in full. Allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment at par for notes allotted hereunder must be made on or before July 1, 1950, or on later allotment, and may be made only in Treasury Certificates of Indebtedness of Series F–1950, maturing July 1, 1950, which will be accepted at par, and should accompany the subscription. The full year's interest on the certificates surrendered will be paid to the subscriber following acceptance of the certificates.

V. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] JOHN W. SNYDER,
Secretary of the Treasury.

[F. R. Doc. 50–5392; Filed, June 21, 1950; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

IDAHO

SMALL TRACT CLASSIFICATION ORDER NO. 8

JUNE 12, 1950.

1. Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by subparagraph (3) of paragraph (a) of Order No. 319 of July 19, 1948 (13 F. R. 4278), I hereby classify under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, for lease and sale for homesite or business site purposes, the public lands described as follows:

BOISE MERIDIAN

T. 5 S., R. 11 E.,
Sec. 25, N½SE¼NE¼.
T. 5 S., R. 12 E.,
Sec. 30, N½ lot 2.

The land will be leased and sold in tracts of approximately 5 acres each being approximately 330 x 660 feet, the longer dimensions extending north and south. The tracts applied for must conform in description with the rectangular system of surveys as one compact unit, i. e., E½ or W½ of a quarter-quarter-quarter section.

The lands which are mostly level are located 84 miles east of Boise, Idaho, and 60 miles west of Twin Falls. United States Highway No. 30 runs very near the north boundary of the area.

2. As to applications regularly filed prior to the date hereof, and are for the type of site for which the land is classified, this order shall become effective immediately.

3. As to the land not covered by applications referred to in paragraph 2, this order shall not otherwise become effective to change the status of the lands until 10:00 a. m., on the 35th day after the date of this order. At that time the land shall, subject to valid existing rights, become subject to application as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the lands affected by this order shall be subject to application by qualified veterans of World War II. All applications filed under this paragraph either at or before 10:00 a. m., on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m., on the 35th day, shall be considered in the order of filing.

(b) Commencing at 10:00 a. m., on the 126th day after the date of this order, any lands remaining shall become subject to application under the Small Tract Act by the public generally. All such applications filed either at or before 10:00 a. m., on the 126th day, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostat, or other copy (both sides) of his certificate of honorable discharge, or of an official document of his branch of service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations or constitutes evidence of any facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

4. Leases will be issued for a period of five years. Leases for homesites will provide for an annual rental of $10, payable for the entire lease period in advance of the issuance thereof. Rental for business site lease is based on gross income with a minimum annual rental of $20. Leases will contain an option to purchase at the appraised price, application for which may be filed after the expiration of one year from the date the lease is issued.

5. The tracts leased will be subject to rights-of-way not exceeding 33 feet in width along or near the edges thereof for road purposes and public utilities. Such rights-of-way may be utilized by the Federal Government, or the State, County or municipality in which the tract is situated, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of

Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

6. All inquiries relating to these lands should be addressed to the Manager, Land and Survey Office, Federal Building, Boise, Idaho.

DANIEL L. GOLDY,
Regional Administrator.

[F. R. Doc. 50-5358; Filed, June 21, 1950; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

RYAN LIVESTOCK AUCTION

NOTICE RELATIVE TO POSTED STOCKYARDS

It has been ascertained that the Ryan Livestock Auction, Ryan, Oklahoma, originally posted on December 8, 1949, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it is no longer used for stockyard purposes. Therefore, notice is given to the owner of such stockyard and to the public that such stockyard is no longer subject to the provisions of said act.

Notice of public rule making has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impractical. There is no legal warrant or justification for not deposting promptly a stockyard which no longer is used for stockyard purposes and is, therefore, no longer a stockyard within the definition contained in said act.

The foregoing rule is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication thereof in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 19th day of June 1950.

[SEAL] F. W. IM MASCHE,
Acting Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 50-5397; Filed, June 21, 1950; 8:51 a. m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

ORGANIZATION AND FUNCTIONS OF THE OFFICE OF THE SECRETARY

Material on the Assistant Secretary for Foreign and Domestic Commerce appearing in the paragraph entitled "Immediate Office of the Secretary" (15 CFR 11.1 as amended by 13 F. R. 6621) is hereby deleted and the following substituted therefor:

The Assistant Secretary for International Affairs serves as the principal adviser of the Secretary on all international matters and exercises direction over all programs and activities of the Department involving international affairs.

(R. S. 161; 5 U. S. C. 22)

[SEAL] CHARLES SAWYER,
Secretary of Commerce.

[F. R. Doc. 50-5379; Filed, June 21, 1950; 8:48 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 3717 et al.]

EXPRESO AEREO INTER-AMERICANO, S. A., ET AL.; THE CUBA-FLORIDA AIR CARRIER PERMIT CASE

NOTICE OF ORAL ARGUMENT

In the matter of the applications of Expreso Aereo Inter-Americano, S. A., Docket No. 3717, Servicios Aereos, S. A., Docket No. 3826, Aerovias "Q", S. A., Dockets Nos. 3258, 3461, and 4048, Cuba Aeropostal, S. A., Docket No. 3543, and Compania Cubana de Aviacion, S. A., Docket No. 3684, all filed under section 402 of the Civil Aeronautics Act of 1938, as amended, for authority to engage in scheduled and nonscheduled air transportation of persons, property, and mail between Havana, Cuba, and points in Florida either on a temporary or permanent basis.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, particularly sections 402 and 1001 of said act, that oral argument in the above-entitled proceeding is assigned to be held on July 25, 1950, at 10:00 a. m., e. d. s. t., in room 5042, Commerce Building, Fourteenth Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., June 16, 1950.

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 50-5391; Filed, June 21, 1950; 8:50 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1223]

JERSEY CENTRAL POWER & LIGHT CO.

NOTICE OF ORDER MODIFYING ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

JUNE 16, 1950.

Notice is hereby given that, on June 15, 1950, the Federal Power Commission issued its order entered June 13, 1950, modifying order of September 27, 1949, published in the FEDERAL REGISTER on October 5, 1949 (14 F. R. 6073), issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5363; Filed, June 21, 1950; 8:47 a. m.]

[Project No. 1207]

GUY G. BEEDLE

NOTICE OF ORDER ACCEPTING SURRENDER OF LICENSE (MINOR)

JUNE 16, 1950.

Notice is hereby given that, on June 15, 1950, the Federal Power Commission issued its order entered June 13, 1950, accepting surrender of license (minor) in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5360; Filed, June 21, 1950; 8:47 a. m.]

[Project No. 1960]

DAIRYLAND POWER COOPERATIVE

NOTICE OF ORDER MODIFYING FINDINGS AND ORDER AUTHORIZING ISSUANCE OF LICENSE (MAJOR)

JUNE 16, 1950.

Notice is hereby given that, on June 15, 1950, the Federal Power Commission issued its order entered June 13, 1950, modifying findings and order of November 17, 1949, published in the FEDERAL REGISTER on November 30, 1949 (14 F. R. 7205), authorizing issuance of license (major) in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5361; Filed, June 21, 1950; 8:47 a. m.]

[Project No. 2009]

VIRGINIA ELECTRIC AND POWER CO.

NOTICE OF ORDER MODIFYING ORDER

JUNE 16, 1950.

Notice is hereby given that, on June 15, 1950, the Federal Power Commission issued its order entered June 15, 1950, in the above-designated matter, modifying order of April 27, 1950, published in the FEDERAL REGISTER on May 3, 1950 (15 F. R. 2503).

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5362; Filed, June 21, 1950; 8:47 a. m.]

[Docket No. G-1409]

TEXAS EASTERN TRANSMISSION CORP.

NOTICE OF APPLICATION

JUNE 16, 1950.

Take notice that on June 5, 1950, Texas Eastern Transmission Corporation (Applicant), a Delaware corporation with its principal place of business in Shreveport, Louisiana, filed an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, seeking authorization to sell and deliver natural gas to its existing customers west of its Compressor Station No. 20 (located in the western part of Pennsylvania) for

a maximum period of two years. Applicant proposes to offer such customers natural gas in proportion to their respective daily contract quantities under existing service agreements, up to a total maximum quantity of 60,000 Mcf on any day until November 1, 1951. Thereafter, Texas Eastern proposes to sell and deliver up to a total maximum quantity of approximately 34,000 Mcf on any day until November 1, 1952, as Texas Gas Transmission Corporation may be able on such day to transport for Applicant from the existing point of interconnection between the systems of Applicant and Texas Gas near Lisbon, Louisiana, to the existing point of interconnection between the same systems near Lebanon, Ohio, and as Applicant can make available for such transportation and sale without impairment of Applicant's ability to meet any of its existing commitments to purchasers of natural gas on a firm basis.

Applicant does not propose the installation and operation of any physical facilities in addition to those previously authorized.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) before the 7th day of July 1950. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-5377; Filed, June 21, 1950; 8:48 a. m.]

FEDERAL TRADE COMMISSION

[Docket No. 5756]

LASSER GARMENT CO., INC., ET AL.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

In the matter of Lasser Garment Company, Inc., a corporation, and Joseph C. Lasser, Kenneth J. Lasser and Sidney Locks individually, and as officers of Lasser Garment Company, Inc.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission.

It is ordered, That Henry P. Alden, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin on Friday, June 23, 1950, at 10 o'clock in the forenoon of that day (eastern daylight saving time), in Room 505, 45 Broadway, New York, New York.

Upon completion of the taking of testimony and receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue an initial decision which shall include findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate order; all of which shall become a part of the record in said proceeding.

Issued: June 14, 1950.

By the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 50-5380; Filed, June 21, 1950; 8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 25182]

IRON AND STEEL ARTICLES BETWEEN OFFICIAL TERRITORY AND WISCONSIN

APPLICATION FOR RELIEF

JUNE 19, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin, agent for and on behalf of carriers parties to tariffs named below.

Commodities involved: Manufactured iron and steel articles, in carloads, minimum weight 80,000 pounds.

Between: Points in central, trunkline, and New England territories, on the one hand, and points in Extended Zone C in Wisconsin, on the other.

Grounds for relief: Circuitous routes. To apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: See tariff, below.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

Tariff:	*Supplement No.*
C. W. Boin's I. C. C. No. A-686	101
I. N. Doe's I. C. C. No. 272	96
B. T. Jones' I. C. C. No. 3388	141
P. R. R. I. C. C. No. 2000	135
B. & O. R. R. I. C. C. No. 23583	47

[F. R. Doc. 50-5373; Filed, June 21, 1950; 8:47 a. m.]

[4th Sec. Application 25183]

PETROLEUM AND PETROLEUM PRODUCTS FROM AND TO POINTS IN THE SOUTH

APPLICATION FOR RELIEF

JUNE 19, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., agent for and on behalf of carriers parties to tariff named below.

Commodities involved: Petroleum and petroleum products, in tank-car loads.

From: Points in Alabama, Florida, Georgia, Indiana, Louisiana, North Carolina, South Carolina, Tennessee, and Virginia.

To: Points in Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

Grounds for relief: Circuitous routes. Competition with motor, motor-rail, or motor-water carriers. To apply over short tariff routes rates made on basis short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1065, Supp. 157.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-5374; Filed, June 21, 1950; 8:47 a. m.]

[4th Sec. Application 25184]

VINYL CHLORIDE FROM VELASCO, TEX., TO INDIAN ORCHARD, MASS.

APPLICATION FOR RELIEF

JUNE 19, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, agent for and on behalf of carriers parties to his tariff I. C. C. No. 3752.

Commodities involved: Vinyl chloride, inhibited, in tank-car loads.

From: Velasco, Tex.

To: Indian Orchard, Mass.

Grounds for relief: Potential competition with motor-water carriers.

Schedules field containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3752, Supp. 448.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-5375; Filed, June 21, 1950; 8:47 a. m.]

[4th Sec. Application 25185]

ALL FREIGHT FROM NEW ENGLAND TERRITORY TO ATLANTA, GA.

APPLICATION FOR RELIEF

JUNE 19, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin and I. N. Doe, agents for and on behalf of carriers parties to tariff named below.

Commodities involved: All commodities in mixed carloads.

From: Boston, East Boston, and Worcester, Mass., and New Haven, Conn.

To: Atlanta, Ga.

Grounds for relief: Competition with motor carriers.

Schedules filed containing proposed rates: C. W. Boin's I. C. C. No. A-909; I. N. Doe's I. C. C. No. 594.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-5376; Filed, June 21, 1950; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 31-571]

NATIONAL GAS & OIL CORP.

ORDER GRANTING APPLICATION FOR EXEMPTION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 16th day of June A. D. 1950.

National Gas & Oil Corporation ("Gas & Oil") having filed with this Commission an application requesting an exemption for itself and its two subsidiary companies, the Newark Consumers Gas Company ("Newark Gas") and the Fritz Oil and Gas Company ("Fritz"), from the provisions of the Public Utility Holding Company Act of 1935 and the rules promulgated thereunder pursuant to section 3 (a) (3) of the act; and

The application having stated the following: Gas & Oil, a non-utility company, was formerly a subsidiary of National Gas & Electric Corporation. The latter, formerly a registered holding company, was merged into Gas & Oil pursuant to a plan of reorganization filed under section 11 (e) of the act and approved by the Commission in November 1949. Gas & Oil's two subsidiaries, named above, were acquired by it pursuant to said merger. Gas & Oil is engaged in the purchase, production, transmission, and distribution of natural gas and in the production and sale of crude oil. Substantially all sales of gas and oil by the applicant are at wholesale. Gas & Oil owns all of the outstanding securities of Newark Gas and 68.2 percent of the outstanding common stock of Fritz.

Newark Gas is a gas utility distributing natural gas in the city of Newark, Ohio. Its gas utility plant as at December 31, 1949, was stated on its books at $183,157, and its gross operating revenues for the 12 months ended December 31, 1949, amounted to $134,358. The filing shows that Newark Gas' net income for the calendar year 1948 amounted to $13,693 or approximately 2.2 percent of the consolidated net income of Gas & Oil, and that for the 12 months ended December 31, 1949, the net income of Newark Gas was 5.09 percent of the consolidated net income of Gas & Oil. Fritz is a non-utility company, producing gas and oil for sale at wholesale. The application states that Fritz does not sell or distribute gas at retail and does not have any utility assets. Gas & Oil, Newark Gas, and Fritz are each organized under the laws of the State of Ohio, and the applicant states that all three companies operate exclusively within that State.

A notice of filing having been issued on February 17, 1950, with respect to said application, said notice having stated that any interested person may not later than February 28, 1950, request the Commission in writing that a hearing be held on such matter, and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

It appearing that the utility operations of Newark Gas are small on an absolute basis as well as in relationship to the consolidated earnings and assets of Gas & Oil's system, and that Gas & Oil owns 100 percent of the outstanding securities of Newark Gas; and it further appearing that Gas & Oil does not directly or indirectly derive any material part of its income from Newark Gas; and

The Commission finding that Gas & Oil meets the standards of section 3 (a) (3) (A) of the act and observing no basis for adverse findings under the unless and except clause of section 3;

It is ordered, effective forthwith, That the said application of National Gas & Oil Corporation for exemption from the provisions of the Public Utility Holding Company Act of 1935 pursuant to section 3 (a) (3) thereof be, and it hereby is, granted.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 50-5364; Filed, June 21, 1950; 8:47 a. m.]

[File No. 54-179]

NATIONAL GAS & ELECTRIC CORP. ET AL.

ORDER RELEASING JURISDICTION OVER LEGAL FEES AND EXPENSES

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 16th day of June A. D. 1950.

In the matter of National Gas & Electric Corporation, National Gas & Oil Corporation, and National Utilities Company of Michigan, File No. 54-179.

The Commission having by order dated November 30, 1949, approved an amended plan filed pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 by National Gas & Electric Corporation ("National"), a registered holding company, and two of its subsidiaries, National Gas & Oil Corporation ("Gas & Oil"), and National Utilities Company of Michigan ("Michigan"), providing for, among other things, the merger of National into Gas & Oil, the reclassification of the common stocks of Gas & Oil and of Michigan, and the distribution of the new common stocks of Gas & Oil and of Michigan among the holders of (and claimants to) National's outstanding shares of common stock; and

Said order having reserved jurisdiction over the payment by Gas & Oil of all fees and expenses of counsel incurred in connection with the amended plan; and

An application having been filed with the Commission setting forth in detail

the services performed by the various counsel and the amounts of their respective fees and expenses; and

Gas & Oil having requested that said fees and expenses of counsel be allowed and that jurisdiction be released over such fees and expenses; and

The Commission having considered the record and finding that the said request is not unreasonable:

It is ordered, That the application is hereby approved and that Gas & Oil shall pay the fees and expenses in the amounts indicated to the following named persons or firms:

David J. Colton, general counsel, $10,000 for fees and $294.01 for expenses;

Power, McConnaughey & Griffith, Ohio counsel, $1,315 for fees and $24.69 for expenses;

McAuliffe & Gordon, Michigan counsel, $700 for fees.

It is further ordered, That the jurisdiction heretofore reserved in this proceeding over all counsel fees and expenses be, and hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 50-5365; Filed, June 21, 1950; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 14696]

U. S. IMPORTS AND EXPORTS, INC.

In re: United States Imports and Exports, Inc. D-28-739-E-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law after investigation, it is hereby found:

1. That Anni Helene Johanna Eva Wilhelm Oehmichen, also known as A. H. J. Oehmichen, on or since the effective date of Executive Order 8389, as amended, and on or since December 11, 1941, has been a resident of Germany and is a national of a designated enemy country (Germany);

2. That Irmgard E. Wilhelm, also known as I. E. Wilhelm, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

3. That all of the outstanding capital stock of United States Imports and Exports, Inc., a corporation, partnership, association or other business organization, organized under the laws of the State of New Jersey and a business enterprise within the United States consisting of 20 shares of no par value common stock registered in the names of the persons listed below in the amounts appearing opposite said names as follows:

Name in which registered:	Number of shares
Erhard Max Oehmichen	18
A. H. J. Oehmichen	1
I. E. Wilhelm	1

is owned by Anni Helene Johanna Eva Wilhelm Oehmichen, also known as A. H. J. Oehmichen and Irmgard E. Wilhelm, also known as I. E. Wilhelm and is evidence of ownership and control of United States Imports and Exports, Inc.

and it is hereby determined:

4. That United States Imports and Exports, Inc., is controlled by, or acting for or on behalf of a designated enemy country (Germany) or persons within such country and is a national of a designated enemy country (Germany);

5. That to the extent that the persons named in subparagraphs 1 and 2 hereof and United States Imports and Exports, Inc., are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the 20 shares of no par value common stock of United States Imports and Exports, Inc. more fully described in subparagraph 3 hereof, together with all declared and unpaid dividends thereon, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The direction, management, supervision and control of United States Imports and Exports, Inc. and all property of any nature whatsoever situated in the United States, owned or controlled by, payable or deliverable to, or held on behalf of or on account of, or owing to, said business enterprise is hereby undertaken, to the extent deemed necessary or advisable from time to time. This order shall not be deemed to limit the power to vary the extent of or terminate such direction, management, supervision or control.

The terms "national", "designated enemy country" and "business enterprise within the United States" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 24, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON, *Acting Director, Office of Alien Property.*

[F. R. Doc. 50-5382; Filed, June 21, 1950; 8:49 a. m.]

[Vesting Order 14747]

SAKAE MIYAZAWA

In re: Bank account owned by Sakae Miyazawa. F-39-1802-C-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Sakae Miyazawa, whose last known address is 67 Nishi Naka Machi, Haku-shima, Hiroshima City, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows: That certain debt or other obligation evidenced by a check dated March 1, 1948, drawn on the Bishop National Bank of Hawaii, King and Bishop Streets, Honolulu, T. H., numbered T 10661 in the amount of $18.14, payable to Sakae Miyazawa, and presently in the custody of the Trustees for the Creditors and Stockholders of the Pacific Bank in Dissolution, P. O. Box 1200, Honolulu, T. H., and any and all rights to demand, enforce and collect the aforesaid debt or other obligation, and any and all rights in, to and under, including particularly the right to possession of the aforesaid check,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Sakae Miyazawa, the aforesaid national of a designated enemy country (Japan); and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 9, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON, *Acting Director, Office of Alien Property.*

[F. R. Doc. 50-5383; Filed, June 21, 1950; 8:49 a. m.]

[Vesting Order 14535, Amdt.]

JUDITHA ANTOINETTE HOERNING ET AL.

In re: Stock owned by Juditha Antoinette Hoerning and others.

Vesting Order 14535, dated April 7, 1950, is hereby amended as follows and not otherwise:

a. By deleting from subparagraph 4 (a) of said Vesting Order 14535 the words and figures "Sixty-four and nine-tenths

(64.9)" set forth with respect to shares of $10.00 par value common capital stock of Cities Service Company and substituting therefor the words and figures "Fifty-eight and six-tenths (58.6)" and

b. By deleting from Exhibit A attached to and by reference made a part of said Vesting Order 14535 the figure "70" set forth opposite certificate number 199714 and substituting therefor the figure "7."

All other provisions of said Vesting Order 14535 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on June 9, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5384; Filed, June 21, 1950; 8:49 a. m.]

[Return Order 659]

ERNST BESAG

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Ernst Besag, Streetly, Staffordshire, England; Claim No. 4942; May 4, 1950 (15 F. R. 2588); property described in Vesting Order No. 201 (8 F. R. 625, January 16, 1943), relating to United States Letters Patent Nos. 2,029,980 and 2,199,477. This return shall not be deemed to include the rights of any licensees under the above patents.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 15, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5385; Filed, June 21, 1950; 8:49 a. m.]

[Return Order 687]

PIROSKA GRUNVALD AND OLGA GRUNVALD

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Piroska Grunvald and Olga Grunvald, Hajduszoboszlo, Hungary; Claims Nos. 40728 and 40729 (Consolidated); May 6, 1950 (15 F. R. 2700); $546.26 in the Treasury of the United States payable to the claimants in equal shares; all right, title, interest and claim of Piroska Grunvald, also known as Piroska Greenwald, and Olga Grunvald, also known as Olga Greenwald, in and to the Estate of Adolph Greenberger, deceased.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 16, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5386; Filed, June 21, 1950; 8:49 a. m.]

SALOMON BEIFUS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Salomon Beifus, San Francisco, Calif.; Claim No. 6776; all right, title, interest and claim of any kind or character whatsoever of Helen Beifuss in and to the Estate of Isaac Berg, deceased; $771.30 in the Treasury of the United States.

Executed at Washington, D. C., on June 15, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5388; Filed, June 21, 1950; 8:49 a. m.]

SUSE FUERST POLATSCHEK

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Suse Fuerst Polatschek, Haifa, Israel; Claim No. 42169; $2,520.55 in the Treasury of the United States; all right, title and interest of Blanka Fuerst in and to the Estate of Helen H. Taubler, also known as Helena Taubler and Helen H. Taeubler, deceased.

Executed at Washington, D. C., on June 15, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5390; Filed, June 21, 1950; 8:49 a. m.]

LOUISE MARY HARDY ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Louise Mary Hardy, Claim No. 25722; Rudolph Hardy, Claim No. 25724; Louise Marguerite Hardy, Claim No. 26271; all of New York City, N. Y.; to Louise Mary Hardy a one-fourth interest and to Rudolph Hardy and Louise Marguerite Hardy each a three-eighth interest in the following described securities presently in the custody of the Safekeeping Department of the Federal Reserve Bank of New York: Fifteen (15) National Railways of Mexico three year 6% secured gold notes, due January 1, 1917, issued in the name of bearer, each of $45 face value bearing the numbers 23842/23856; Fifteen (15) National Railways of Mexico prior lien 4½% 50 year sinking fund gold bonds, due July 1, 1957, issued in the name of bearer, each of $1,000 face value, bearing the numbers M34612, M48914, M34702/4 and M37442/51.

Executed at Washington, D. C., on June 15, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5389; Filed, June 21, 1950; 8:49 a. m.]

ALOISIA AFUHS

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Aloisia Afuhs, a/k/a Louise Afuhs, a/k/a Luise Afuhs, Vienna, Austria; Claim No. 37366; $4,763.54 in the Treasury of the United States.

Two (2) United States Savings Bonds Series G, 2½%, issued November 1, 1943, due November 1, 1955, registered in the name of the Alien Property Custodian, Washington, D. C., Nos. 2041138 at $500; 3940484 at $1,000, in the custody of the Federal Reserve Bank of New York, New York.

Forty (40) shares of Calaveras Copper Company (Delaware) $5.00 par value capital stock, registered in the name of Gustav Afuhs, assigned in blank by Union National Bank, trustee under Will of Gustav Afuhs, deceased, Certificate Nos. A3584 for 10 shares; A3620 for 10 shares; A3619 for 20 shares; in custody of the Deposit and Clearance Section, Comptroller's Branch, Office of Alien Property, 120 Broadway, New York, New York.

One (1) share of Cleveland Engineering Agency Company $25.00 par value capital stock, registered in the name of Gustav Afuhs, assigned to Alien Property Custodian, Washington, D. C., Certificate No. 33 for one share, in custody of the Deposit and Clearance Section, Comptroller's Branch, Office of Alien Property, 120 Broadway, New York, New York.

Two hundred (200) shares of Engineer Gold Mines, Ltd., Inc. (Delaware) $5.00 par value capital stock registered in the name of Paine, Webber & Co., assigned in blank by Paine, Webber & Co., Certificate Nos. A8131 for 100 shares; A9120 for 100 shares; in custody of the Deposit and Clearance Section, Comptroller's Branch, Office of Alien Property, 120 Broadway, New York, New York.

One Thousand Ninety (1,090) shares of Engineer Gold Mines, Ltd., Inc. (Delaware) $5.00 par value capital stock, registered in the name of Gustav Afuhs, assigned in blank by Union National Bank, trustee under Will of Gustav Afuhs, deceased, Certificate Nos. A9278 to A9287, inclusive, for 100 shares each; B3527 for 10 shares; B3545 for 10 shares; B3810 for 40 shares; B3899 for 20 shares; B4401 for 10 shares; in custody of the Deposit and Clearance Section, Comptroller's Branch, Office of Alien Property, 120 Broadway, New York, New York.

Fifty (50) shares of Esmeralda Gold Mining Corporation (Nevada) $1.00 par value preferred capital stock registered in the name of Gustav Afuhs, assigned in blank by Union National Bank, trustee under the Will of Gustav Afuhs, deceased, Certificate No. P-26 for 50 shares; in custody of the Deposit and Clearance Section, Comptroller's Branch, Office of Alien Property, 120 Broadway, New York, New York.

One Hundred (100) shares of Esmeralda Gold Mining Corporation (Nevada) $1.00 par value common stock registered in the name of Gustav Afuhs, assigned in blank by Union National Bank, trustee under the Will of Gustav Afuhs, deceased, Certificate No. 47 for 100 shares; in custody of the Deposit and Clearance Section, Comptroller's Branch, Office of Alien Property, 120 Broadway, New York, New York.

One (1) subscription warrant No. 7 for 2,080 shares of Engineer Gold Mines, Ltd., Inc., Class A stock at $.40 per share, bearing notation "Unless payment for this subscription is made in full and in cash on or before June 30, 1932, this warrant is void and of no value", in custody of the Deposit and Clearance Section, Comptroller's Branch, Office of Alien Property, 120 Broadway, New York, New York.

All right, title, interest and claim of any kind or character whatsoever of Luise Afuhs in and to the estate of Gustav Afuhs, deceased, and in and to the trust created under the Will of Gustav Afuhs, deceased.

Executed at Washington, D. C., on June 15, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5387; Filed, June 21, 1950; 8:49 a. m.]